

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 4
June 10, 2013
UNOFFICIAL DRAFT - 6/10/13 Afternoon Session

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Min-U-Script® with Word Index

1 VOLUME IV

2 IN THE UNITED STATES ARMY

3

4 UNITED STATES

5 VS.

6 MANNING, Bradley E., PFC

COURT-MARTIAL

7 U.S. Army, xxx-xx-9504

8 Headquarters and Headquarters Company,

9 U.S. Army Garrison,

10 Joint Base Myer-Henderson Hall,

11 Fort Myer, VA 22211

12 _____ /

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15 The Hearing in the above-entitled matter was
16 held on Monday, June 10, 2013, commencing at 1:35 p.m.,
17 at Fort Meade, Maryland, before the Honorable Colonel
18 Denise Lind, Judge.

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4 who is not the official Government reporter, was not
5 permitted to be in the actual courtroom where the
6 proceedings took place, but in a media room listening
7 to and watching live audio/video feed, not permitted to
8 make an audio backup recording for editing purposes,
9 and not having the ability to control the proceedings
10 in order to produce an accurate verbatim transcript.

1 APPEARANCES:

2

3 ON BEHALF OF THE GOVERNMENT:

4

CAPTAIN JOSEPH MORROW

5

MAJOR ASHDEN FEIN

6

CAPTAIN ANGEL OVERGAARD

7

8

ON BEHALF OF THE ACCUSED:

9

DAVID COOMBS

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MAJOR THOMAS HURLEY

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CAPTAIN JOSHUA TOOMA

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1 PROCEEDINGS,

2 (Reconvened at 1:35 p.m.)

3 THE COURT: Please be seated. Court is
4 called to order. Major Fein?

5 MAJOR FEIN: Parties in the last recesses
6 are again present, Your Honor. Captain Whyte is absent
7 and Captain Overgaard is present.

14 MR. HURLEY: Yes, ma'am.

15 MAJOR FEIN: Yes, ma'am. I believe that's
16 19, one classified, and then there's an unclassified
17 redacted version as well, but it's the same.

21 MR. HURLEY: He has them in order of

1 prosecution exhibits numbers.

2 THE COURT: Excuse me?

3 MR. HURLEY: Yes, ma'am. May we wait a
4 second just to make sure that's right.

5 THE COURT: Do it any way. I can do it
6 alphabetically or whatever makes sense to you.

7 CAPTAIN HURLEY: I apologize. What
8 we've done is we've set them up in order of the
9 witness testimony according to the witness list
10 proposed by the government. So that's the order
11 that they're currently in now.

12 THE COURT: Will it be faster for all to
13 take my copies and match them to his orders?

14 MR. HURLEY: Ma'am, I think it will be
15 faster if we took our copies and matched them to the
16 prosecution ID numbers.

17 THE COURT: All right. (matching copies).

18 MR. HURLEY: Ma'am, we did our best.

19 THE COURT: Thank you. PFC Manning, the
20 one question I would want to ask you before we get into
21 your colloquy, there's 19 of these stipulations of

1 expected testimony and as I hold them in my hand they
2 can be the size of a small paperclip to hold them
3 together.

4 Have you had an opportunity to read each
5 one of these stipulations. Have you had enough time
6 to have reviewed all of these and are comfortable
7 (INAUDIBLE) to through these with me now.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: I know some are dated 7 June
10 and some are dated 9 and 10 June, and I just noticed
11 here on my copy of the redacted classified version
12 doesn't have a date. Is that for a reason?

13 MR. HURLEY: No, ma'am.

14 MAJOR FEIN: No, ma'am, the original
15 classified versus indicated 10 June.

16 THE COURT: The redacted version?

17 MR. HURLEY: Yes, ma'am.

18 THE COURT: Now that we've looked at that
19 one, I also was advised by the parties who came into my
20 office that lasted about two minutes, that a couple of
21 these stipulations, and this is -- look at the one to

1 Lieutenant commander has been a redacted copy on page
2 2. Look on paragraph 8.

3 It has prosecution exhibit and then it's
4 handwritten 87 for identification. The parties
5 advised in the 802 witness with the stipulations of
6 expected testimony and you made handwritten notes or
7 changes on it.

8 PFC Manning, would you initiate it, your
9 defense counsel would initial it, and the government
10 would initial it; but this looks like it was just
11 added as part of the original stipulation.

12 Is that my understanding of the parties?

13 MR. HURLEY: Yes, ma'am, we received them
14 from the government. They've already handwritten in
15 the prosecution exhibit the time we reviewed it and
16 signed it.

17 THE COURT: That is correct.

18 MAJOR FEIN: Yes, ma'am.

19 THE COURT: And PFC Manning you that agreed
20 to that?

21 THE WITNESS: Yes, ma'am.

1 THE COURT: And based just on the
2 stipulations, but didn't know the appellate exhibit
3 number, the ones we were referring to at (INAUDIBLE).

4 MR. HURLEY: Yes, ma'am. As we were going
5 back and forth on content and once we got down to the
6 specifics testimony. (INAUDIBLE)

7 THE COURT: Did you tell either side that
8 they need to go through and initial these?

9 MR. HURLEY: No, ma'am, not for all 19.

10 MAJOR FEIN: No, ma'am.

11 THE COURT: All right. Let's just go
12 through them one-by-one to make sure we're both talking
13 about the same thing. Prosecution Exhibit 70 for
14 identification, which is stipulation of expected
15 testimony from Mr. Peter Artale.

16 MAJOR FEIN: Artale, ma'am.

17 THE COURT: Artale. Do you have them.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: And the second one I have is
20 Mr. Sean Chamberlin. Do you have that one as
21 Prosecution Exhibit 712.

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: The next one I have is
3 stipulation of expected testimony of Special Agent John
4 Wilbar, which is prosecution Exhibit 72 for
5 identification.

6 THE WITNESS: Yes, ma'am, Your Honor.

7 THE COURT: The next one is James Fung,
8 Prosecution Exhibit 73 for identification.

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: And next one is Alex Aithers
11 Prosecution Exhibit 74 for identification.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: The next one is James McManus 7
14 June 2013, Prosecution Exhibit 75 for identification.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: The next one is no Special
17 Agent Troy Bettencourt, Prosecution Exhibit 76 for
18 identification.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Next one is Special Agent Kirk
21 Ellis prosecution Exhibit 77 for identification.

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Next one is Special Agent Mark
3 Mander, Prosecution 78 for identification.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Next is one is Doug
6 Schasteen, Prosecution 80 for identification.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Next one is Prosecution 106 for
9 identification, Mr. Jacob (INAUDIBLE).

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: And next one Ms. (INAUDIBLE)
12 white Prosecution Exhibit 107 for identification.

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: Next one is Lieutenant
15 Commander Thomas Hopkins, U.S. Navy Reserve,
16 Prosecution Exhibit 111B Bravo.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Next one is Lieutenant Colonel
19 retired Martin Nehring, Prosecution Exhibit 112 for
20 identification.

21 THE WITNESS: Yes, ma'am.

1 THE COURT: Next one is Debra van Alstyne,
2 Prosecution Exhibit 114 for identification.

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: Next one is Mr. Wyatt Bora,
5 Prosecution Exhibit~115 for identification.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Next one I have is Mr. Patrick
8 Hoeffell. Is that how you pronounce his name?

9 MAJOR FEIN: Yes, ma'am.

10 THE COURT: And that would be Prosecution
11 Exhibit~116 for identification.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: And then I have CW5 Jon LaRue,
14 Prosecution Exhibit~117 for identification.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: And then I have Ms. Jacqueline
17 Scott which is Prosecution 116 for identification.

18 THE WITNESS: I have 119.

19 THE COURT: Okay. It looks look 6 to me.
20 That would be 119 for identification; is that right?

21 MAJOR FEIN: Yes, ma'am.

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Do you have any other
3 stipulations of expected testimony that I haven't
4 referenced?

5 THE WITNESS: No, ma'am.

6 THE COURT: Before signing each of these
7 stipulations -- first of all, are the signatures on the
8 backs of these stipulations.

9 THE WITNESS: Yes, ma'am, except for the
10 redacted one.

11 THE COURT: Is your signature on the back
12 of the original?

13 THE WITNESS: Yes.

14 THE COURT: And that would be for the
15 record Prosecution Exhibit 111B Bravo, Lieutenant
16 Colonel Thomas Hopkins.

17 MR. HURLEY: What we have redacted and
18 Alpha is the original.

19 MAJOR FEIN: We're Alpha for you if you'd
20 like to look at it right now.

21 THE COURT: Let me -- before we begin, let

1 me look at that one. Has PFC Manning, has he had an
2 opportunity to look at 111 Alpha?

3 MR. HURLEY: Yes, ma'am, he has.

4 THE COURT: Why don't you give it to me
5 just so I can see it.

6 MAJOR FEIN: May I approach?

7 THE COURT: Yes. I'm looking at a copy of
8 what's been marked as Prosecution Exhibit 111 Alpha.
9 It looks like there are redactions PFC Manning at the
10 top and bottom of each page, but the substance of the
11 redaction that I want to talk about with you is
12 paragraph 16, redacted in the redacted copy.

13 Have you had an opportunity to review
14 the paragraph 16 in the original exhibit.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: You've had the opportunity to
17 thoroughly read that?

18 THE WITNESS: Yes, it's correct.

19 THE COURT: You can take that back.

20 PFC Manning, with each of these 19
21 stipulations before you signed them, did you read

1 them thoroughly?

2 THE WITNESS: Yes.

3 THE COURT: Do you understand the contents
4 of the stipulations.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Do you have approve of the
7 content of the stipulations.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Before signing the
10 stipulations, did your defense counsel explain the
11 stipulations to you?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: You understand you have an
14 absolute right to the refuse the stipulation, the
15 contents of the documents and you should stipulate to
16 them only if you believe it's in your best interests.

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Once all of these stipulations
19 or expected testimony, which means that counsel from
20 both sides agree the to stipulations for expected
21 testimony, you're agreeing that each of these 19

1 witnesses if they were sitting here in the witness
2 stand today they would testify substantially as what's
3 in the stipulation of expected testimony that's geared
4 to them and if they were under oath that's exactly what
5 they would testify.

6 You're not agreeing to the truth of what
7 they're saying. Their stipulation and testimony can
8 be attacked the same way that if the person was
9 testifying here live. They can would be
10 contradicted and they can be explained in the same
11 way as if they were here testifying here in live in
12 court. Do you understand that?

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: And what I've told you earlier
15 and what your defense counsel has told you and what
16 I've told you today, do you still desire to enter into
17 these stipulations?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Did counsel explain the
20 contents of each of these 19 stipulations?

21 MR. HURLEY: Yes, ma'am.

1 THE COURT: So I admit them as evidence now
2 or can we go through --

3 MAJOR FEIN: Admit them and we'll read them
4 as we go through.

5 THE COURT: All right.

6 Prosecution Exhibit 70 for
7 identification is stipulation of expected testimony
8 of Mr. Peter Artale is admitted.

9 Prosecution Exhibit 71 for
10 identification the stipulation of expected testimony
11 of Mr. Sean Chamberlin is admitted.

12 Prosecution Exhibit 72, Special Agent
13 John Wilbar for identification is admitted.

14 I'm not going say stipulation of
15 expected testimony with each of these. I'll just
16 say, Prosecution Exhibit 73 of James Fung is
17 admitted.

18 Prosecution Exhibit 74, Mr. Alex Withers
19 is admitted.

20 Prosecution Exhibit 75, Mr. James
21 McManus is admitted.

1 Prosecution Exhibit 76, Special Agent
2 Troy Bettencourt is admitted.

5 Prosecution Exhibit 78, Special Agent
6 Mark Mander is admitted.

9 MR. COOMBS: Ma'am, that's Prosecution
10 Exhibit 80.

11 | THE COURT: Why do I have 79 here?

12 | Prosecution 79 is not admitted.

15 Prosecution Exhibit~106 Mr. Jacob Grant
16 is admitted.

17 Prosecution Exhibit 107, Ms. Lorindo
18 White is admitted.

19 Prosecution Exhibit 111 Alpha, which is
20 the classified version, which I can initial later on
21 at recess, and Prosecution Exhibit 111B for

1 identification are admitted.

2 Prosecution Exhibit 112 Lieutenant

3 Colonel retired Martin Nehring is admitted.

4 Prosecution Exhibit 113 Ms. Debra van
5 Alstyne is admitted.

6 Prosecution Exhibit 115 Mr. White Bora
7 is admitted.

8 Prosecution Exhibit 116, Mr. Patrick
9 Hoeffell is admitted.

10 Prosecution Exhibit 117, CW5 John LaRue
11 is admitted.

12 And Prosecution Exhibit 119
13 Mr. Jacqueline Scott is admitted.

14 Let the record reflect I'm handing all
15 of those exhibits back to the court reporter.

16 Is there anything that we need to
17 address before we proceed?

18 MAJOR FEIN: No, Your Honor.

19 MR. HURLEY: No, ma'am.

20 THE COURT: Call your next witness.

21 CAPTAIN MORROW: Call Special Agent Mark

1 Mander.

2 Whereupon,

3 MARK MANDER,

4 called as a witness, having been first duly sworn to
5 tell the truth, the whole truth and nothing but the
6 truth, was examined and testified as follows:

7 DIRECT EXAMINATION

8 Q You are Special Agent Mark Mander?

9 A Yes.

10 Q Investigate unit (INAUDIBLE) CID?

11 A Yes.

12 Q Agent Mander, how long have you been with
13 CID?

14 A I've been an agent approximately 11 years.

15 Q And you are a civilian agent at this time?

16 A Yes, I'm a civilian agent currently.

17 Q And describe your career at CID?

18 A Beginning in 1994 I became a CID agent as
19 military or active duty CID agent, was a military agent
20 for about four years, went to the Reserves for three
21 years. I then took a break from both reserves or any

1 military service to join the Reserves again in 2007,
2 and then in 2008 I became a civilian agent and was also
3 a reserve agent at the same time.

4 Q When did you joint CCIU specifically?

5 A I was hired as a civilian agent in CCIU in
6 February of 2008.

7 Q And what training did you have to become a
8 CID agent?

9 A I think in 1994 I went to basically the CID
10 school where they teach various aspects of being an
11 agent.

12 Q And what training have you received related
13 to computer crimes as part of your CCIU job?

14 A Basically all the agents at CCIU go through
15 various training courses at the defense cyber
16 investigations training academy, (INAUDIBLE). I've
17 attended approximately over 400 hours of courses there.
18 The courses range from identifying various computer
19 parts and software, doing analysis of computers
20 imagining or obtain forensic imaging of computers,
21 things of that nature.

1 Q What is CCIU's area of expertise in the
2 CCIU world?

3 A CCIU is Army CID's investigative element
4 that is specifically focused on conducting
5 investigations involving computer intrusions and
6 computer crimes.

7 Q And what do you mean by an intrusion?

8 A Essentially there are many instances or
9 incidents where Army or DoD computer networks are
10 intruded upon where someone will remotely try to get
11 access or does gain access and obviously that is a
12 crime that we investigate.

13 Q And do you hold any certifications in
14 computer-related fields?

15 A Currently I hold a Department of Defense
16 certificate computer crime investigator certification.

17 Q And approximately how many cases have you
18 investigated in the as a CCIU agent?

19 A Probably in excess of 20.

20 Q And what about total in CCIU, how many
21 cases have you vetted?

1 A Probably in access of 200 cases where I was
2 the primary agent or I was helping another agent on
3 their case.

4 Q I'd like to discuss the investigation of
5 PFC Manning at WikiLeaks. What has been -- or what has
6 your role been in the investigation to date?

7 A When the investigation first started
8 essentially I was a case agent in the investigation
9 which means I would do various case related
10 investigative duties.

11 Q And how did this investigation compare to
12 other investigations you've been a part of at CCIU?

13 A For CCIU as well as all of the other
14 investigations that I've participated as a CCIU agent.
15 This was probably one of the largest and most
16 complicated investigations we've ever had.

17 Q As a case agent, what were you doing
18 day-to-day?

19 A My duties involved reviewing various
20 documents, either classified documents or open-source
21 documents, interviewing personnel that had, you know,

1 some relationship or bearing on the investigation,
2 writing reports, collecting evidence, coordinating with
3 various other agencies and other personnel to forward
4 the case.

5 Q And what initially brought PFC Manning to
6 law enforcement's attention?

7 A Initially in -- towards the end of May of
8 2010 our office received an e-mail that suggested a
9 soldier in Iraq had or was or would be wrongfully
10 disclosing classified information.

11 Q And what organization was initially
12 responsible for the investigation?

13 A Initially it was Army CID was involved. It
14 wasn't the CCIU initially. The case was opened by a
15 CID office in Iraq that was assigned the case.

16 Q And when did the case get transferred to
17 CCIU?

18 A I'm going to say probably the second week
19 of June, I believe it was maybe the 9th or 10th of June
20 or somewhere thereabouts.

21 Q Aside from the computer access, why was the

1 case transferred to CCIU in your office specifically in
2 the United States?

3 A Well, there were several reasons aside from
4 kind of computer aspects even when the investigation
5 was with the office in Iraq. It was pretty much
6 understood that CCIU would conduct the computer
7 forensics related to the case, but as the case
8 developed we started to understand that there was going
9 to be most likely a lot of commercial providers and/or
10 other places within the United States that we would
11 have to get evidence from such as log files and things
12 of that nature.

13 Typically in a case where we have to deal
14 with commercial providers like say Google or Microsoft
15 of the -- typically to compel them to provide evidence
16 to us. We'll, get a federal magistrate search warrant,
17 and a federal magistrate with something that was not
18 available in Iraq. They don't have a federal
19 magistrate over there. So that was another reason that
20 the case was transferred to us.

21 Q Now, does CCIU itself work with the

1 assistant U.S. attorneys and federal magistrates often?

2 A Yes, very often, because --

3 MR. TOOMAN: Objection, Your Honor.

4 Relevance.

5 THE COURT: Overruled.

6 THE WITNESS: We work with assistant U.S.
7 attorneys and federal magistrates very often.
8 Generally because when a computer intrusion incident
9 occurs a lot of times it's not apparent what the source
10 of that intrusion is and, therefore, it's not always a
11 soldier, therefore, we wouldn't (INAUDIBLE) SJ or a
12 trial counsel initially.

13 BY MR. MORROW:

14 Q Other than the source, sort of the need to
15 interact with the commercial providers in order to
16 obtain search authorizations, any other reasons why the
17 case was better suited for or why the case was
18 transferred to CCIU in the United States?

19 A We discussed the obviously computer aspect
20 of it. The fact that there would be federal
21 magistrates most likely involved to compel the

1 commercial providers. There was also, you know, maybe
2 not so obviously, but personnel within the United
3 States that knew Manning as well as we also developed
4 there was indications that there was persons that he
5 had met with or had been in contact with in the Boston
6 area during or before his time in Iraq as well as
7 during the time he was on leave.

8 Q And how did the evidence get from Iraq to
9 the United States?

10 A There was -- initial evidence was collected
11 in Iraq that basically the agents there had collected
12 and that evidence was brought from Iraq via one of the
13 these agents who was going on leave who hand carried
14 the evidence with him from Iraq to the Washington, D.C.
15 area and I met him in the airport.

16 Q You met him at the airport?

17 A I did what that was that.

18 THE COURT: What airport?

19 BY MR. MORROW:

20 Q What airport was that?

21 A Does the Dulles International Airport.

1 Q And when approximately was that?

2 A I would have to look at the evidence
3 documents it would probably sometime in the second week
4 of Julian right about there I believe.

5 Q And once you met that the agent at Dulles
6 what did you do next?

7 A We basically invented the items that he had
8 hand carried pertain evidence vouchers that he also had
9 and then I signed footer items and then I hand cared
10 them to our evidence room at CCIU.

11 Q And once the evidence was in the unit the
12 states how did the investigation progress from a there?

13 A Initially we looked at various pieces of
14 evidence. The forensic team of CCIU began examining
15 the evidence that had been received as well as evidence
16 that had been collected in other places and based on
17 the examination of that evidence.

18 The forensic team would then a -- the
19 investigative team to lead or investigative matters
20 that needed to be followed up.

21 Q And at this point when the evidence was

1 transferred, was the case very well developed?

2 A No, the case was just developing
3 essentially.

4 Q And what were you -- what were the cases
5 using to track down leads? What was being revealed by
6 the examinations by the forensic examiners?

7 A Well, for example, on some of the digital
8 media that was collected in Iraq that I believe there
9 were chat logs between PFC Manning and Mr. Lamo that
10 were correspond to do chat logs between Mr. Lamo and
11 PFC Manning from digital media that is what collected
12 from Mr. Lamo.

13 So looking at those chat logs as well as
14 other information that was contained on the digital
15 media that is what going examined such as there was I
16 mean from PFC Manning I believe it was his personal
17 computer those items of information that were you know
18 in those digital media items created invest leads to
19 identify certain people to interview them.

20 Q And what did the chat logs reveal regarding
21 sort of the scope of the alleged translations or

1 compromising information?

2 CAPTAIN TOOMAN: Objection, Your Honor. I
3 mean, the chat log.

4 MR. MORROW: I'm asking a very general
5 question, Your Honor, to add to his testimony.

6 THE COURT: Are you going to go down and
7 (INAUDIBLE) as before. Overruled.

8 THE WITNESS: Can you repeat the question,
9 sir?

10 BY MR. MORROW:

11 Q What was revealed in the chat logs that
12 provided sort of context to the compromise or the
13 alleged compromises of information?

14 A I'm not following, sir.

15 Q Who was the recipient of information
16 allegedly comprised by PFC Manning?

17 A According to the chat logs and other next
18 it appeared that the organization WikiLeaks was the
19 recipient of information.

20 Q And what is WikiLeaks?

21 A WikiLeaks, to my knowledge, is a

1 organization which its mission is to obtain and
2 publicly display or public documents from governments
3 and other private organizations.

4 Q And when did the WikiLeaks organization
5 become widely known?

6 A It was probably widely known following the
7 disclosure of a video involving U.S. Army helicopter
8 involved in combat operation.

9 Q And what was released during that -- what
10 was the release essentially can you describe what was
11 released by WikiLeaks?

12 A It was on April 5th of 2010 WikiLeaks or
13 members of WikiLeaks held a press conference type of
14 event where they displayed and/or published an edited
15 version of a video taken from an Army helicopter
16 involved in a combat operations.

17 Q What do you mean by an, edited video?

18 A Some my knowledge the video was edited from
19 the original video.

20 CAPTAIN TOOMAN: Objection, Your Honor.
21 This witness has no personal knowledge of any editing

1 on the video.

2 THE COURT: Does he?

3 BY CAPTAIN MORROW:

4 Q Agent Mander, are you familiar with the
5 video, the Apache video? Have you seen the Apache
6 video in its full form as part of this investigation?

7 A I don't remember having seen the original
8 video, but I know from looking at the version that was
9 released by WikiLeaks, it had been edited because there
10 was certain information that wouldn't have been
11 contained in the original such as names of some of the
12 personnel that was casualties in the video.

13 Q And you said the WikiLeaks organization, is
14 it a website you said it publishes information? How
15 does it publish information?

16 A The WikiLeaks organization has a website.
17 The domain name is WikiLeaks.org, or ORG, and they also
18 have several other we call them mirror websites that
19 contain generally the same content as the main site.

20 Q What do you mean by a, mirror website?

21 A When I say mirror I mean that there were

1 additional websites using other domain names that
2 appear to have been hosted physically in other
3 countries or other jurisdictions I guess you could say
4 that would contain the same content as the main site
5 and presumably with the intent so that if the main site
6 was ever taken down by some type of government order
7 or --

8 CAPTAIN TOOMAN: Objection, Your Honor,
9 this witness would have no knowledge of why it would be
10 multiple sites.

11 THE COURT: Sustained unless there was a
12 foundation.

13 BY MR. MORROW:

14 Q Do your knowledge, Agent Mander, is the
15 WikiLeaks website still active?

16 A It's still active.

17 Q And who can access the website?

18 A Any member of the general public.

19 Q Who was the public face or leader of the
20 WikiLeaks?

21 A There is a Mr. Julian Assange is kind of

1 the self-described leader or editor of WikiLeaks.

2 Q Agent Mander, I want to talk about the
3 structure of the organization when it came back to the
4 United States. Outside of CCIU, what other
5 investigative organizations were involved in the
6 investigation of PFC Manning?

7 A Initially the Department of State
8 Department in particular, or DSS, was involved in
9 investigating the compromise and/or unlawful disclosure
10 of a I, believe it was a diplomatic cable relating to
11 information involving Iceland, and that had occurred
12 several months before CID was involved in the
13 investigation.

14 Q And other than the DSS what other
15 organizations were involved?

16 A Initially when we received information from
17 or should I say that information was developed about a
18 son-in-law? Iraq possibly unlawfully disclosing
19 information Army military intelligence was also
20 involved because efficiently there was a concern that
21 possibly foreign intelligence service could be involved

1 as well as the state department and Army military
2 intelligence.

3 Q Any federal law enforcement authorities?

4 A Later, probably in late June or maybe July
5 the FBI also became involved.

6 Q What was the status of the investigation or
7 did the various investigative organizations, were they
8 working together?

9 A Yes, they we call it joint investigation
10 and what that means is that the investigative agents
11 each determine that they will work together and
12 typically they will define kind of investigative leads
13 specific to that agency's interest that they will
14 pursue.

15 Q And what was CCIU's claim essentially?

16 A CCIU was to investigate all Army and/or DoD
17 related investigative leads.

18 Q And what was the FBI's link?

19 A The FBI this would be investigating any
20 (INAUDIBLE) leads that didn't really have like a
21 Department of Defense or Army and/or nexus.

1 Q Generally did the investigative
2 organizations share information?

3 A Yes.

4 Q And what about investigative activities,
5 did the various organizations stay in their lane or did
6 you all do, conduct investigative activities together?

7 A Yes. There's numerous instances such as
8 various interviews that were done jointly. So, for
9 example, there was at least one interview that I
10 conducted where there was CID Army and/or military
11 intelligence as well as the DSS agents participated in
12 the interview.

13 Q And as part of this investigation
14 approximately how many individuals have you
15 interviewed?

16 A I would have to go back and look at the
17 case file, but I would say probably at least 25 or
18 more.

19 Q And are you familiar with agents
20 investigative reports?

21 A I'm familiar, yes.

1 Q And approximately how many reports have you
2 filed as part of this investigation?

3 A Again, I'd have to review the case file,
4 but I would say probably, probably in access of at
5 least 50.

6 Q I want to talk about some other
7 investigative activity that CCIU conducted in relation
8 to this case. As part of the investigation, did CCIU
9 preserve or collect information that was posted on the
10 Wikileaks website?

11 A It at various points I believe there was
12 agents that were assigned to download information that
13 was published on the Wikileaks website because it
14 contained classified information and was otherwise
15 evidence.

16 Q And what would be the benefit of collecting
17 information from there? How was that information used?

18 A The information that was collected from the
19 Wikileaks website would be used for comparison purposes
20 to information that may be found on digital media that
21 was collected in the case from various cases, from

1 various sources.

2 CAPTAIN TOOMAN: I will object to their
3 line of questioning the witness said that other agented
4 are the ones that downloaded. So it's not his personal
5 knowledge.

6 MR. MORROW: Your Honor, I think I've
7 established his personal knowledge of the entire
8 investigation.

9 THE COURT: Overruled.

10 BY MR. MORROW:

11 Q Is that a typical investigative activity
12 for CCIU?

13 A What --

14 Q Preserving and collecting information in
15 websites.

16 A In some cases, yes.

17 Q Now, based on your knowledge and
18 experience, are there ways to observe a website as it
19 appeared on a certain date?

20 A There are certain tools that would allow
21 you to see what a website looked previously.

1 Q And what are some of those tools?

2 A One tool that we will so occasionally use.
3 It's a website that uses the domain name icon.org and
4 it also has a nickname. We call it the wayback
5 machine.

6 Q And are there any other ways that you might
7 observe a website as it appeared at a certain date
8 prior?

9 A I know that Google is also a potential
10 source Google as it looks at websites to catalog them
11 for search results that sometimes saves a, what we
12 call, a cached version of that website.

13 Q Can you explain how an agent or how would
14 you use Google cache to see how a website may appear on
15 a certain day?

16 A Well, for example, some of what recently I
17 was searching for a particular term to see if I could
18 find something and sometimes especially DoD computer
19 networks may be blocked from going to certain websites
20 because of either the nature of the website or
21 sometimes make a key word such as something involving

1 something sexual will be automatically blocked through,
2 you know, filtering.

3 So to get around this issue sometimes you
4 can look at the Google cached version and get an idea
5 of what the website that you're looking for looks like.

6 Q How would you access the Google cache
7 version versus the website that's being blocked? How
8 does it appear to you on the screen when you are
9 accessing the Google cache (INAUDIBLE)?

10 A Generally you put your search terms in the
11 Google website would you hit search and you would then
12 receive results, and then typically there is -- it
13 depends on what time or era we're talking about, but
14 right now presently there's like a little arrow next to
15 the one of search results and then you can choose to
16 see the cache version versus the actual version.

17 Q And the cache version, does it indicate
18 that date that the website was saved or downloaded or?

19 A Typically when you view the cached version
20 at the top portion of the version that you'll see it
21 will say something to the effect of, this is Google's

1 version of this website on whatever date and time, and
2 it also will give you a caveat that the website may
3 have changed since then.

4 Q And you mentioned the Internet archive or
5 archive.org, can you explain how you might use that to
6 observe a website in the past?

7 A That tool is little more comprehensive.

8 Q First let's start with this then. What is
9 the Internet archive or archive.org?

10 A It's a website that was established. It
11 seemed to be funded by some type of nonprofit
12 organization that their goal is to catalog websites on
13 the Internet, amongst other things.

14 So what they're website does is it appears
15 to periodically go out and download the content of
16 websites and then it saves them for retrieval by the
17 general public that want to use or see what a
18 particular site looked like in the past.

19 Q Now, in your experience as an agent, have
20 you used the Internet archive or archive.org to see how
21 a website might have looked in the past?

1 A Yes. There's been occasions where we have
2 been site, involved an investigation may have been
3 taken down by the time that we want to look at it and
4 thereafter we would like to see when it previously
5 looked like and, therefore, we might use that tool as a
6 way to see what a website looked like in the past.

7 Q So take me through how you might use the
8 Internet archive or archive.org and describe from the
9 beginning and we'll try to go through is this slowly?

10 A Assuming that you have a web browser and
11 computer connected to the Internet, would you open up
12 the web browser window, you would navigate to the
13 archive.org website.

14 On that website there is a place we can
15 enter in text of what you want to see. So you'd
16 presumably put in the address or uniform resource
17 locater code for the websites that you're interested
18 in.

19 You would then hit a search button at which
20 point if the website has been achieved or cataloged
21 within archive.org you would be shown something that

1 resembles like a calendar and that calendar will have
2 little circles for days that it captured of the website
3 that you've typed in has been archived at which point
4 you can then click on the little circles and see that
5 version of that website that has been archived.

6 Q And it's that version of that website
7 that's linked to a date?

8 A Yes. There will be like a date and time
9 sometimes some websites are cataloged archived more
10 than once per day.

11 Q Now, once you've clicked on that date, what
12 happens?

13 A Typically the website for the day and/or
14 time that you've clicked on will then display and you
15 will see, generally speaking, what that website looked
16 like on that day and time.

17 Q Now, if you printed that web page from the
18 Internet archive, what would happen?

19 A If you printed that page you would get a
20 printout of generally what was on the screen, and
21 depending on the browser settings, most browsers have

1 the ability to include the thing you've printed, the
2 address of the website as well as the date and time and
3 maybe, say, like the number of pages and/or the total
4 of the website.

5 Q I'm retrieving what's been marked as
6 Prosecution Exhibit 109 for identification.

7 THE COURT: Proceed.

8 CAPTAIN TOOMAN: The defense requests the
9 opportunity to voir dire this witness about his
10 knowledge of the that machine or archive.org, how it
11 functions.

12 THE COURT: With the goal of venting
13 visibility of this exhibit.

14 MR. COOMBS: I would object to foundation,
15 personal knowledge of this witness and I'd like to voir
16 dire in light of that objection.

17 THE COURT: Let me see the exhibit. Why
18 don't we do this again. I have two roles here. One of
19 them as the military judge, that would be in every
20 case, for motions to decide the legality or nonlegality
21 of something coming in.

1 In that role I will allow that
2 government at least, at this point, to go forward
3 with the questions on what their foundation would be
4 with respect to admitting this exhibit and then I'll
5 allow the defense to voir dire the witness and
6 decide your objections.

7 Should I rule in favor of the defense
8 and not of this exhibit, (INAUDIBLE) does that make
9 sense?

10 MR. COOMBS: Yes, Your Honor.

11 MR. MORROW: Yes, Your Honor.

12 THE COURT: Proceed. Let me see what that
13 exhibit is first.

14 BY MR. MORROW:

15 Q I'm handing the witness what's been marked
16 as Prosecution Exhibit 109 for identification.

17 Do you remember that document, Agent
18 Mander?

19 A I do.

20 Q And what is it?

21 A It appears to be a version of the most

1 wanted leaks of 2009 list that was obtained from the
2 archive.org website.

3 CAPTAIN MORROW: Permission to publish to
4 the Court, Your Honor.

5 THE COURT: Proceed.

6 BY CAPTAIN MORROW:

7 Q Agent Mander, I want to focus mainly on
8 sort of the bottom of this page, specifically the line
9 at the very bottom that starts with HTTP://.

10 Do you see that?

11 A Yes.

12 Q Can you explain just by looking at that
13 line what this web image or what this printout shows or
14 what exactly that means down at the bottom?

15 A As I mentioned, when you print a document
16 using your web browser various web browsers will allow
17 you to include in the header or footer of what you're
18 printing. Information such as the URL of the document
19 you're printing.

20 So, for example, based on this footer here,
21 this would be a document that was printed from the

1 address that's listed there that starts with the
2 HTTP:// (INAUDIBLE)

3 Q What are the numbers. It says / and then a
4 web again? What are the numbers to the right starting
5 with 2009? What does that indicate?

6 A As far as my knowledge, that would be the
7 date and the time of the capture of the website which
8 follows after the numbers the HTTP://Wikileaks.org.

9 Q And, again, what does it say at the end
10 after Wikileaks.org?

11 A /wiki/draft:v_ (INAUDIBLE) and then it
12 looks like the whole URL is too long (INAUDIBLE). The
13 dots kind of indicate there's more.

14 Q Now, as part of this case, Agent Mander,
15 have you had the opportunity to see whether the website
16 still exists even outside of using the archive.org?

17 A The Wikileaks?

18 Q The Wikileaks website, and specifically the
19 2009 draft. The website you just looked.

20 MR. TOOMAN: Objection. Relevance of what
21 Wikileaks.org looked like today. Not relevant, Your

1 Honor.

2 THE COURT: Where are you going with this?

3 CAPTAIN MORROW: Your Honor, between what
4 how it looked in the past and how the website still
5 appears today, (INAUDIBLE).

6 THE COURT: You're asking this witness if
7 this witness can find that document today?

8 CAPTAIN MORROW: Yes, exactly.

9 THE COURT: That's overruled.

10 BY CAPTAIN MORROW:

11 Q Agent Mander, please, explain how you would
12 find this document or this web page today?

13 A That particular document I believe I used
14 some key words and conducted a search using Google, and
15 one of the first or maybe one of the first full results
16 was that document that is actually or was on the
17 WikiLeaks website as of just a couple of weeks ago.

18 Q I'm going to show you what's been marked as
19 Prosecution Exhibit 110 for identification.

20 THE COURT: Are you going to have the same
21 objections to this one?

1 CAPTAIN TOOMAN: Can I see it, Your Honor?

2 Can I have a moment, Your Honor?

3 THE COURT: Yes.

4 CAPTAIN TOOMAN: (INAUDIBLE).

5 BY CAPTAIN MORROW:

6 Q Agent Mander, I'm handing you what's been
7 marked as Prosecution Exhibit 110 for identification.

8 Can you take a look, please?

9 A (Witness reviewing document.)

10 Q Do you recognize that document?

11 A Yes this is a document similar to the one
12 that you just showed me. It is a version that you
13 would find in the WikiLeaks.org website as of June 1st.

14 Q And how do you know that?

15 A I went to the site and printed out this
16 document and where I've initialed the bottom above the
17 date and time on each page.

18 Q How was that document created? You created
19 it?

20 A I printed it, yes.

21 CAPTAIN MORROW: Permission to publish to

1 the Court, Your Honor.

2 THE COURT: Proceed.

3 BY CAPTAIN MORROW:

4 Q Agent Mander, how is this web page
5 organized?

6 A From generally speaking, it looks like --

7 Q Do you need the exhibit back?

8 A Sure.

9 At the top of the document it says the word
10 draft coal the most wanted leaks 2009-sort and
11 generally speaking below that there is somewhat of like
12 a table of contents which are links, and each of the
13 links represents the various countries in alphabetical
14 order to include like a miscellaneous category of
15 international organizations and then below that are
16 listed various countries and below each country appears
17 to be a list of documents or other information.

18 Q Does the United States appear on that list?

19 A The United States does appear on this list.

20 Q And what page is that?

21 A It begins on page 9 and appears to go to

1 page 11.

2 CAPTAIN MORROW: Your Honor, permission to
3 publish page (INAUDIBLE) to the Court.

4 THE COURT: Proceed.

5 BY CAPTAIN MORROW:

6 Q Agent Mander, at this time, I'd like you to
7 move to the panel box, please, if you would?

8 A What's the panel box?

9 Q Right here.

10 I'm handing Agent Mander what's been
11 admitted as Prosecution 81. Mr. Mander, Agent Mander,
12 I'd like you to scroll down to 28 November in that
13 Exhibit.

14 A Okay.

15 Q And I'd like you to look at lines 27
16 through 33.

17 A (Witness reviewing document.)

18 Okay.

19 Q The last 27 to 33, what do they say?

20 A The whole line or just the action?

21 Q The action line, please.

1 A From line 27 the action column reads
2 retention plus sign of plus sign interrogation plus
3 sign videos.

4 Q On this list found on this website, do you
5 see any similar information?

6 A Move on up to the top of the document.

7 Q Let me help you. Do you see anything under
8 military intelligence?

9 A On the second bullet there's a CI detainee
10 interrogation news, it appears there.

11 Q And, again, like for you to scroll to that
12 what you're looking at. Scroll to lines 114 and 115,
13 please.

14 A Okay.

15 Q What do you see? What's the action there?
16 What's the information?

17 A Line 114 reads, interrogation plus tapes
18 and line 115 it reads, interrogation plus video.

19 Q Agent Mander, now, I'd like to go back to
20 29 November please and lines 43 and 44 specifically.

21 A Okay.

1 Q And have you found that?

2 A I have.

3 Q What are the lines, what do those reads?

4 A The action column it reads, detainee plus
5 abuse and that's for 33, and line 44 is the same
6 detainee plus abuse.

7 Q And does similar information exist on the
8 military tory intelligence of this web page?

9 A On the fourth bullet the words detainee
10 abuse photos, withhold by the Obama administration.

11 Q I'd like to go to 30 November, line 62.

12 A Okay.

13 Q And what does that line read?

14 A The action column also reads, detainee plus
15 abuse.

16 Q Now, I want you to go to a serious of
17 searches starting to 8 December. I'm looking
18 specifically at -- if you could refer to lines 100
19 through 111.

20 A Line 100, the action column reads,
21 Guantanamo plus detainee plus operations.

1 Q Read all of them down to 111.

2 A The next line JTF plus GTMO. The next line
3 is JTF plus GTMO plus SOP. Next line is CJTF plus 82
4 plus detainee plus SOP. Next line is CJATF plus 82
5 plus detainee plus plus operations. Next line is JTF
6 plus GTMO plus SOP plus interrogation. Next line is
7 CJTF plus 101. Next line is JTF plus GTMO plus SOP
8 plus interrogation.

9 The next line is, SOP plus interrogation.

10 A The next line is, JTF plus GTMO. The next line is JTF
11 plus GTMO plus SOP. The next line is JTF plus GTMO
12 plus Delta plus SOP. The next line is, human plus
13 rights plus campaign.

14 Q First what's SOP mean to you as somebody
15 who's been in the military?

16 A Generally that's an abbreviation for an
17 acronym for standard operating procedure.

18 Q And what does delta mean to you in the
19 context of these searches?

20 A I would assume that would be (INAUDIBLE)
21 which is a portion of Guantanamo Bay and the detainee

1 facility there.

2 Q A those lines 100 through 111, is any
3 similar information or items appear in this list here.
4 I'll give you a moment. I would ask you just to review
5 all the way down. When you see something that catches
6 your eye, please, let me know.

7 A (Witness reviewing document.)

8 On the seventh bullet use the word Camp
9 Delta (INAUDIBLE) Delta (INAUDIBLE) Guantanamo
10 standard operating procedure 2005, 2009. To bullets
11 below that is the words unredacted inquiry into
12 treatment of detainees and U.S. custody 20
13 November 2008. A few bullets below that is the words
14 Camp Delta Guantanamo standard operating procedure
15 2005, 2009. Below that is Camp Delta Guantanamo
16 interrogation versus operation procedure 2003-2009, and
17 it appears to be all what I see.

18 CAPTAIN MORROW: Your Honor, at this time
19 prosecution moves 109 and 110 and.

20 THE COURT: I'm going to allow it. Are you
21 finished?

1 CAPTAIN MORROW: No, no, I'm not, actually.
2 I have a few more questions to go through regarding
3 different exhibits but I can stop now, if you like.

4 THE COURT: Why don't we stop now. I'll
5 let the defense voir dire and we'll get a little bit
6 out of order and we'll (INAUDIBLE) that issue and go
7 forward with the rest of your direct.

8 CAPTAIN MORROW: I'm replacing page 9 in
9 the prosecution ID 110.

10 THE COURT: Can the witness go back to the
11 chair?

12 CAPTAIN TOOMAN:

13 MR. MORROW: The witness can go back to
14 the chair, Your Honor.

15 THE COURT: All right.

16 CAPTAIN TOOMAN: We would object to
17 Prosecution Exhibit 110 as hearsay.

18 MAJOR FEIN: (INAUDIBLE) retrieving
19 Prosecution Exhibit 81 for the witness.

20 THE COURT: All right.

21 CAPTAIN MORROW: I've handed the court

1 reporter 110 for ID.

2 VOIR DIRE EXAMINATION

3 Q I want to talk to you a little bit about
4 archive do the organize. The Prosecution Exhibit 109
5 for identification, you didn't actually visit
6 WikiLeaks.org in 2009, did you?

7 A No, not 2009.

8 Q So you didn't actually see what their
9 website looked like in 2009?

10 A In 2009 I did not actually go to the
11 website and see it.

12 Q And with archive.org what you see is what
13 they tell you was there? You didn't actually see what
14 was there in 2009?

15 A If I go to archive.org I see what is
16 presented for the date that they say that it was there.

17 Q Okay. You don't have any knowledge of how
18 archive.org actually compiles their data, do you?

19 A I do not. I have various, I guess, you can
20 say, assumptions of how it works based on my knowledge
21 in the field.

1 Q But you don't know where that data comes
2 from?

3 A Which data?

4 Q The data that's on archive.org.

5 A I would assume that it comes from the sites
6 that are presented that they archive.

7 Q So you don't know where it comes from? You
8 don't know how the data is gathered?

9 A Technically, no, I don't know how that data
10 is gathered.

11 Q You don't know how often that data is
12 gathered? You don't know the frequency of that data
13 gathering?

14 A I can say that the frequency appears to be
15 just periodic. It doesn't seem to have a set schedule
16 just based on the results that are available.

17 Q And you don't know if that's all of the
18 data because you didn't actually go to the website in
19 2009, correct?

20 A The website.

21 Q So in this case we're talking about the

1 Wikileaks most wanted list. You didn't actually go to
2 in it 2009. So we're looking at it or archive.org, you
3 don't know if anything is missing, correct?

4 A That would be a fair statement.

5 Q Now, you mentioned on direct that when you
6 go to archive.org there are some todays that are
7 missing.

8 Do you know why that is?

9 A I don't believe that I said there's some
10 days that were missing.

11 Q I think you said that the calendar would
12 come up and you can click on a day and then if you had
13 the ability to click on the day that means that
14 archive.org is saying that you have a website for that
15 day, but I would massage you can't click on every day,
16 can you?

17 A You cannot.

18 Q So there are days missing?

19 A There are days when the archive.org website
20 does not appear to have archived that website.

21 Q Do you have any knowledge of whether or not

1 a website could embed code to their website that would
2 prevent archive.org from gathering their website?

3 A I believe there is a file that web host or
4 web masters can put on their site called robot.text,
5 and other archiving type sites are supposed to respect
6 that file, and in that file you can put in certain key
7 words I believe that be tell other sites, not to
8 archive or safe copies of your file or your website.

9 Q Do you know where the archive.org servers
10 are located?

11 A I have no direct knowledge of that.

12 Q Do you know when archive.org gears their
13 information?

14 A You mean like time of day?

15 Q Time of day.

16 A Based on the results that are displayed on
17 their website for various given sites it appears to be
18 just periodic. It doesn't appear to be any particular
19 time of day, day of week, or any other pattern that I
20 can discern.

21 Q Are you aware of whether or not are there's

1 ever been any hack attempts on the cache servers
2 employed by archive.org.

3 A I do not have any direct knowledge, but I
4 would be surprised if there were not any hacks.

5 Q Do you have any knowledge of the operating
6 system that the servers are running?

7 A I do not have knowledge of what operating
8 systems they're running.

9 Q Do you have any knowledge as to whether or
10 not there are backups of servers?

11 A I do not have any direct knowledge of that.

12 Q Were you actually there when the particular
13 website you were talking about today, were you there
14 when it was cached by archive.org?

15 A Was I -- when you say there?

16 Q Were you actually there when whoever from
17 archive.org gathered what they say was this website,
18 were you actually there when they did it?

19 A I was not at archive.org wherever their
20 location, when that was archived.

21 Q You talked a little bit about a robot.text

1 file that a company would or person could put on their
2 website. Do you have any knowledge whether Wikileaks
3 had one of those on their website?

4 A I do not have any knowledge of that.

5 CAPTAIN TOOMAN: One moment, Your Honor.
6 Please, Your Honor, we have no further voir dire
7 questions of this witness. We would objection to
8 Prosecution Exhibit 109 for identification because
9 this, where it says has no personal knowledge of how
10 archive.org operates.

11 There are a number of cases that are
12 considered the admissibility of archive.org.

13 THE COURT: You plan to present those to me
14 when?

15 CAPTAIN TOOMAN: Right now, Your Honor.

16 THE COURT: Thank you.

17 CAPTAIN TOOMAN: I will note first that
18 none of those cases are criminal cases, they all are
19 civil cases dealing with either trademark or pattern
20 law. One of them is (INAUDIBLE) Telamuso. Pardon my
21 pronunciation.

1 THE COURT: Why don't we do this: You can
2 read them on the record, but if you're going to present
3 me cases can I have a Xerox copy of them?

4 CAPTAIN TOOMAN: Yes, ma'am. One of them
5 is -- this is a Polish pronunciation. (INAUDIBLE).

6 THE COURT: Yes.

7 CAPTAIN TOOMAN: It's 2004 westlaw
8 WL2367740. And in that case the Court required and
9 affidavit from the wayback machine from the proprietors
10 of the wayback machine before they would allow
11 admissibility and also St. Luke's Cataract site, 2006
12 westlaw 130242.

13 In that case the Court precluded the
14 admissibility of the wayback machine absent
15 testimony from someone with personal knowledge. In
16 that case the Court wanted actually someone from
17 WikiLeaks. In this case they would wanted someone
18 from WikiLeaks to come and talk about what was
19 actually on their website at the time.

20 So our objection to presumption
21 Exhibit 109 for identification would be

1 authentication as well as double hearsay, and we
2 will, of course, get you those cases, Your Honor.

3 THE COURT: Thank you, and your objection
4 to prosecution 110 is hearsay?

5 CAPTAIN TOOMAN: Yes, ma'am.

6 THE COURT: Okay.

7 Government, do you have any case
8 authority to read?

9 CAPTAIN MORROW: The government believes
10 there are some more recent cases, Your Honor, with
11 respect to the (INAUDIBLE) issue wherein have the
12 Delaware state issue. I don't think it's a Delaware
13 state issue.

14 Agent Mander's testimony was very clear
15 that is a battle state printout that was a
16 representation of the archive.org website capturing
17 another website.

18 THE COURT: So are you offering it for the
19 truth of the matter asserted or not?

20 CAPTAIN MORROW: We're offering both of
21 exiting for (INAUDIBLE).

1 THE COURT: Okay. The hearsay objection
2 Exhibit 110, is overruled. So if you don't have any
3 other objections to Prosecution Exhibit 110 I'll admit
4 that.

5 CAPTAIN TOOMAN: We would also based on
6 relevance. There is no evidence that PFC Manning ever
7 saw this particular website. So (INAUDIBLE) and that
8 the defense (INAUDIBLE) that it's not relevant.

9 THE COURT: What else, the relevance?

10 CAPTAIN MORROW: Your Honor, I believe
11 Agent Mander used Prosecution Exhibit 81 to go through
12 and provide circumstantial evidence through his
13 testimony of user of those computers searching for
14 information very similar to information of the similar
15 site.

16 THE COURT: What's the difference between
17 Prosecution Exhibit for identification 109 and 110.

18 MR. MORROW: There's no difference, Your
19 Honor. We'll leave the issue alone if the
20 Prosecution Exhibit 110 is admitted.

21 THE COURT: Wait a minute, let's go back

1 Prosecution Exhibit. I may have to go to just remind
2 the witness (INAUDIBLE).

3 Prosecution Exhibit 110, what is it and
4 what did you do to get it?

5 THE WITNESS: Can I see the two exhibits?
6 To answer your question, ma'am, I believe the one
7 exhibit is directly from the WikiLeaks website which
8 was recently within the last couple of weeks and the
9 other version is the archive.org version of the same
10 document as captured, reportedly captured in 2009 by
11 the archive.org website.

12 THE COURT: Prosecution Exhibit 110 was
13 your testimony that you basically Googled the WikiLeaks
14 website and there that document was and you printed it.

15 THE WITNESS: How can I tell (INAUDIBLE).

16 THE COURT: So the one he printed himself
17 is Prosecution Exhibit 110.

18 CAPTAIN MORROW: Yes, ma'am.

19 THE COURT: Tell me how you got the
20 Prosecution Exhibit 110.

21 THE WITNESS: I went directly to the

1 Wikileaks.org website and printed out the document that
2 I had on my screen.

3 MR. HURLEY: Just with respect to the
4 Prosecution Exhibit 110 for identification, those are
5 relevance objections based on this was -- I believe it
6 date on that it's 1 June.

7 THE COURT: I'm going to overrule that.
8 That's the date, that 1 June the document (INAUDIBLE)
9 has a different date. That is in the document that's
10 on the website. So what is your argument, it's going
11 to weight, not of admissible.

12 CAPTAIN TOOMAN: We just think that the
13 date 2009 there's no approve or evidence that that was
14 actually up on the website in 2009 nor is there
15 evidence that PFC Manning actually saw in it 2009.

16 THE COURT: I understand all of that. Now,
17 with respect to Prosecution 109, I will take that under
18 advisement. I will consider the authority offered by
19 both sides and make a ruling probably tomorrow morning.
20 Do you have cases to give me as well?

21 CAPTAIN MORROW: We have several cases that

1 we -- yes, we do.

2 THE COURT: In hard copy?

3 CAPTAIN MORROW: Yes, Your Honor.

4 THE COURT: Depending on the voluminous
5 amount, my ruling may not come tomorrow morning, but it
6 will be coming.

7 CAPTAIN MORROW: I'm taking Prosecution 110
8 and Prosecution 109.

9 THE COURT: Can I see Prosecution Exhibit
10 110?

11 CAPTAIN MORROW: Yes, Your Honor.

12 THE COURT: Prosecution Exhibit 110 is
13 admitted.

14 BY CAPTAIN MORROW:

15 Q Agent Mander, are you familiar with the
16 term, social media?

17 A Yes, I am.

18 Q What is social media?

19 A General term, social media, refers to
20 either websites and/or systems that encourage members
21 of the general public to create accounts and then

1 encourages them to communicate with each other.

2 Q What are some examples of social media
3 website?

4 A Some examples might include website
5 Facebook, website MySpace as well as Twitter as an
6 example.

7 Q What is Twitter?

8 A Twitter is both a website as well as I
9 guess you can consider it software that runs in various
10 platforms that allows members of the general public to
11 submit short messages which other members of the
12 general public can then follow or subscribe to.

13 Q During the course of an investigation, do
14 you recall having seen a WikiLeaks organization Twitter
15 feed?

16 A Yes, the WikiLeaks organization has a
17 Twitter account.

18 Q And what is the user name or handle of that
19 account?

20 A I believe it's just WikiLeaks.

21 Q And generally why do people use Twitter?

1 What's the purpose of it?

2 A Personally I would say for entertainment,
3 however, you could also use it as a method to
4 disseminate information generally widely to the public.

5 Q And how is Twitter set up? You know, my
6 understanding of Facebook is, you know, you have
7 friends and those friends can see your Facebook
8 website. How is Twitter set up?

9 A Twitter is generally set up in that any
10 member of the general public can create an account in
11 which they can then post short messages.

12 Other members of the general public can
13 either view those messages by serving for that use
14 other their website or they can subscribe to that
15 user's Twitter feed which is a long running collection
16 of messages directly and then presumably they get those
17 messages in real time, or near real time, as they are
18 submitted to the system or the site.

19 Q And Wikileaks Twitter feed you referred to
20 earlier the Twitter account that access can on the
21 Internet?

1 A It is accessible by the general public on
2 the Internet.

3 Q And you said there's a feed, what do you
4 mean by, a feed? Just that explain that again, please.

5 A I would describe the Twitter feeds as
6 basically a collection of the messages that have been
7 submitted by a particular user account and they appear
8 generally in chronological order with the most recent
9 message at the top of the feed.

10 Q And have you observed the WikiLeaks Twitter
11 feed recently?

12 A Somewhat repeatedly, yes.

13 Q And how active is that feed?

14 A It appears to be very active. There were
15 messages about when I last saw it about this trial
16 occurring.

17 THE COURT: When was that?

18 THE WITNESS: I believe that was also --

19 CAPTAIN TOOMAN: Objection, Your Honor,
20 relevance. The recent feeds of WikiLeaks go to any
21 element of the charges of this case of PFC Manning.

1 THE COURT: Tell me the last time you
2 accessed it.

3 THE WITNESS: Sometime after the beginning
4 of the Manning trial. Maybe the 3rd or 4th of June of
5 this year.

6 THE COURT: What is relevant to that?

7 CAPTAIN MORROW: I'm just laying a
8 foundation of the witness' knowledge of the Twitter
9 feed that's all Your Honor.

10 THE COURT: That's all. I'll consider it.
11 Okay. Go ahead.

12 Before you continue your testimony was
13 that software that runs on various platforms, what
14 is a platform?

15 THE WITNESS: A platform could be
16 considered a computer, a smart phone, tablet, different
17 types of computer hardware, Your Honor.

18 THE COURT: Thank you.

19 BY CAPTAIN MORROW:

20 Q Now, have you reviewed -- when you recently
21 reviewed the Twitter feed, the WikiLeaks Twitter feed,

1 could you tell whether there had been tweets or were
2 the tweets from you know several years ago still
3 available to you?

4 A It appears that all of the publicly
5 published messages from any given account are remain on
6 the site indefinitely.

7 Q And we talked about the Internet archive
8 previously. Now, do you have to use the WikiLeaks or
9 have you had to use the Internet access tweets
10 (INAUDIBLE) from the past or are those tweets still
11 available?

12 A When I attempted to look at Twitter
13 messages on Internet archive I received a message
14 saying those were unavailable, and I generally assumed
15 because of the volume of messages that are in archive
16 does not archive or catalog those.

17 Q I'm showing you Prosecution Exhibit 32 for
18 identification.

19 CAPTAIN MORROW: I'm showing it to
20 defendant's counsel.

21 BY CAPTAIN MORROW:

1 Q Agent Mander, I'd like you to go to the
2 second of page on this exhibit. If you would, would
3 you please -- do you recognize that document?

4 A Yes, I do.

5 Q And what is it?

6 A This is a printout of the Google's cached
7 version of a Twitter message sent on the WikiLeaks
8 Twitter account.

9 Q And, again, what's the Google? When you
10 say it's the Google cached (INAUDIBLE), what do you
11 mean by that?

12 A It is the version that Google saves as a
13 search result that you can use to view a particular
14 website if for some reason that website is maybe
15 unavailable directly.

16 Q Now, do you have to use the Google
17 passwords do access the WikiLeaks feed?

18 A You do not.

19 Q Let's talk about that specific printout.
20 Is the tweet dated?

21 A The message is dated. It's dated 8/ or

1 possibly 6 January of 2010.

2 CAPTAIN MORROW: Your permission to publish
3 to the Court.

4 THE COURT: Go ahead.

5 BY CAPTAIN MORROW:

6 Q That's kind of hard to see, Agent Mander,
7 but I want to talk about some of the sort of graphics
8 behind the message. Have you seen -- first, can you
9 describe sort of that graphic?

10 A The background graphic appears to be
11 repeated four times horizontally. It appears to be I
12 guess describe as two globes that are in an hour glass
13 and they appear to be top upper most one appears to be
14 dripping to the lower one.

15 Q And have you seen that graphic like that
16 before?

17 A That appears to be the logo or graphic that
18 is typically permanently displayed on the WikiLeaks
19 website.

20 Q Now, Agent Mander, you said this is a
21 representation of something you printed, or explain

1 exactly what this is again, please?

2 A Sometimes we take what we call a screen
3 capture which is a -- we can use various types of
4 software to actually take what's called a picture of
5 the computer screen monitor, whatever we're looking at,
6 and then save it as a graphics file.

7 So you'll actually see in the bottom
8 right-hand corner some of the information from my
9 computer as well as one of the windows I had opened
10 down in the bottom. That's kind of hard to see from
11 this, but it's there.

12 Q And did you -- what do you after you
13 observed this on the web page? What did you do?

14 A I believe I took a screen capture of the --
15 when I was looking at and this item was printed out
16 and -- can you move it up so I can see the bottom?

17 Q Sure.

18 A On the very bottom is the time and date of
19 when this item was printed, and those are my initials
20 that I actually put on the printed page.

21 CAPTAIN MORROW: Your Honor, the

1 prosecution offers Prosecution Exhibit 32 for
2 identification. This is Prosecution Exhibit 32.

3 CAPTAIN TOOMAN: We will object, Your
4 Honor. Again, personal knowledge. We use a web cache.
5 Didn't actually view the tweet on the date reported to
6 be and also relevance because, again, not I guess
7 viewed on 1 June so (INAUDIBLE) and I guess personal
8 knowledge of how Google --

9 THE COURT: Do you want to voir dire the
10 witness with respect to his personal knowledge on
11 Google cache?

12 CAPTAIN TOOMAN: I would like to.

13 CAPTAIN MORROW: May I ask you a few
14 questions, Your Honor?

15 THE COURT: Yes.

16 BY CAPTAIN MORROW:

17 Q With regard to this tweet, can you read the
18 tweet?

19 A The message that is tweeted is, have
20 encrypted videos of U.S. bomb strikes on civilians
21 <http://bit.ly/wlafghan2> need super computer time.

1 Http://1jsf.org.

2 Q Again, is that tweet dated?

3 A It appears to be either 6 or 8 January of
4 2010.

5 Q And have you seen that tweet before in
6 another context other than the Google's cache?

7 A This tweet is also on the WikiLeaks Twitter
8 account.

9 Q So how would you find that tweet on the
10 WikiLeaks Twitter account?

11 A One of two ways. You could either do a
12 search for it using something like Google and then go
13 directly to the Twitter page that has that message or
14 you could go to Twitter look for the WikiLeaks account
15 and then presumably scroll down to look all of their
16 messages newly found this particular one.

17 Q Have you done that as part of this case?

18 A I did the first mentioned way. There was I
19 believe like thousands of Twitter messages. So I did
20 not read every single one.

21 Q But you read this one?

1 A Yes, I saw this one.

2 Q And you printed this one?

3 A I did.

4 Q Do you recall when that was?

5 A That was sometime ago. That was maybe last
6 year.

7 CAPTAIN MORROW: I'm taking exhibit from
8 the witness.

9 THE COURT: Are you finished?

10 CAPTAIN MORROW: Yes, Your Honor, with
11 respect to that.

12 THE COURT: You have more coming?

13 CAPTAIN MORROW: I have more one tweet
14 coming.

15 THE COURT: Are you anticipating the same
16 objection?

17 CAPTAIN TOOMAN: Yes.

18 THE COURT: Why don't we go through it and
19 you'll get your chance.

20 BY CAPTAIN MORROW:

21 Q I'm retrieving Prosecution Exhibit 31 for

1 identification from the court reporter. I'm handing
2 the witness what's been marked as Prosecution Exhibit
3 31 for identification.

4 Agent Mander, do you recognize that
5 document?

6 A Yes, I do.

7 Q And what is it, and, again, concentrate on
8 the first page?

9 A This document is a screen capture showing
10 another tweet from a WikiLeaks website as cached by
11 Google.

12 Q And what date is that tweet?

13 A The date of the tweet is 7 May 2010.

14 Q And what's the content of the message?

15 A The message reads, we would like a list of
16 as many dot e-mail addresses as possible. Please
17 contact editor at sign WikiLeaks.org or submit.

18 Q And you used this tweet using Google cache
19 on your computer?

20 A I did.

21 Q What did you do after you observed the

1 tweet?

2 A I took a screen capture and then printed
3 out that screen capture, and initially the printed page
4 was printed out.

5 Q And did you do that at the same time as the
6 other tweet we just talked about?

7 A Roughly at the same time.

8 Q Approximately?

9 A Yes.

10 Q And with respect to Prosecution Exhibit 31
11 for ID, you talked -- we previously talked about the
12 background. I'm handing it back to you. The
13 background text, the graphics, and, again, where have
14 you seen these that background text of graphics?

15 A The background graphics appear to be
16 identical to the other tweet, and I've seen the same
17 similar graphic on the WikiLeaks.org website.

18 Q Have you seen that message before in the
19 WikiLeaks Twitter feed, not in a Google cache form?

20 A Yes. It's still available on the actual
21 Twitter account of their feed from the WikiLeaks

1 Twitter account.

2 Q When did you see that tweet in the regular
3 WikiLeaks?

4 A That was sometime ago, and I don't remember
5 the exact date.

6 Q Was it approximately the same date as you
7 the saw the other tweet?

8 A Yes.

9 Q And, again, what did you do at that time
10 with that tweet?

11 A Essentially something similar, took a
12 screen capture or printed the tweet onto paper and then
13 initialed that piece of paper.

14 CAPTAIN MORROW: I'm retrieving Prosecution
15 Exhibit 31 for identification and handing it to the
16 court reporter. Your Honor, we would move to admit
17 this exhibit for identification as well.

18 THE COURT: All right. I assume the same
19 objection?

20 CAPTAIN TOOMAN: Yes, ma'am.

21 THE COURT: Okay. What is your objection

1 to Prosecution Exhibits 31 and 32?

2 CAPTAIN TOOMAN: Your Honor, we would
3 object to hearsay. We would also object that the
4 witness has no personal knowledge and can't
5 authenticate them. No personal knowledge of how Google
6 creates their cache.

7 THE COURT: If I'm understanding the
8 government's position, they're not offering it to admit
9 (INAUDIBLE) that basis, they're offering to admit it on
10 the prior or both, what are you doing?

11 CAPTAIN MORROW: Your Honor, we actually
12 have the prior version printed and that was produced in
13 discovery as well. The reason we didn't --

14 THE COURT: On what basis are you moving to
15 add in these?

16 CAPTAIN MORROW: Excuse me?

17 THE COURT: On which basis are you going to
18 admit these two exhibits.

19 CAPTAIN MORROW: We are not offering either
20 exhibit for the truth. We're offering it for
21 (INAUDIBLE).

1 THE COURT: Are you offering the Google
2 will cache or are you offering the prior look?

3 CAPTAIN MORROW: We're offering the prior
4 look and we'll actually add that as an exhibit Alpha to
5 these exhibits. The reason that we didn't have them on
6 this dates is when we printed it's very hard to see the
7 date of the tweet. So we used this color version to
8 mark as an exhibit so that the date could be readable.

9 We can -- we will certainly -- can
10 attach or mark the other version that Agent Mander
11 as printed and initialed as well.

12 THE COURT: All right. Go ahead captain.

13 CROSS EXAMINATION

14 Q Just a few questions about your knowledge
15 of Google cache and Twitter. Do you personally have a
16 Twitter account?

17 A I do not.

18 Q Do you have any knowledge of how Twitter
19 archives their messages?

20 A When you say -- can you be more specific?

21 Q Do you know how they do it?

1 A I don't know.

2 Q Do you know the process they go through in
3 order to save tweets?

4 A No.

5 Q Do you know if a tweet can be deleted?

6 A I do not know for certain, no.

7 CPTAIN MORROW: A (INAUDIBLE) printout of
8 a web page, so his knowledge of Twitter is not
9 necessarily or relevant.

10 THE COURT: I'm going to overrule that.

11 Go ahead.

12 BY CAPTAIN TOOMAN:

13 Q Agent Mander, I want to talk to you about
14 Google cache. Do you know how Google goes about
15 creating their cache?

16 A Specifically the technical aspects, no.

17 Q Do you know where their servers are
18 located?

19 A I believe they have servers located in many
20 places.

21 Q Do you know where the servers are located

1 that service the cache?

2 A I do not.

3 Q Do you know how often Google goes out and
4 creates their cache, how often they go out and grab
5 data?

6 A I do note.

7 Q And do you know if they use a program or a
8 proprietor algorithm in order to grab that information?

9 A I would assume, yes, they do.

10 Q You assume that, but do you actually know?

11 A I do not.

12 Q Do you know the frequency with which Google
13 goes out and grabs information?

14 A I do not.

15 Q Do you know if there's any way that a web
16 page would prevent Google from grabbing it?

17 A I believe the robot.text file that we
18 talked about before is a method.

19 Q Adds you answered before when we were
20 talking about tack archive.org. Do you also not know
21 whether Wikileaks.org employees (INAUDIBLE) one over

1 those for their text files?

2 A I do not know if they employ one of those
3 text files.

4 Q There are a couple of dates on these tweets
5 that were hard to read. Did you ever actually look at
6 Twitter on those dates?

7 So 6 January or 8 January, 2010, did you
8 look at the tweet that day?

9 A I did not.

10 Q Do you know if the Google cache servers
11 have ever been hacked?

12 A I do not know that.

13 Q Do you know if anyone has ever tried to do
14 that?

15 A I do not know that.

16 Q Do you know the operating system that
17 Google cache runs?

18 A I do not know that.

19 Q Do you know if they have backups of their
20 servers?

21 A I have no actual knowledge of that, no.

1 CAPTAIN TOOMAN: Your Honor, we would renew
2 our objections authentication for Prosecution Exhibit
3 31 for identification and 32 for identification as well
4 as is hearsay, Your Honor, and we'll address.

5 THE COURT: I believe the government told
6 me that they're offering it for nonhearsay purposes; is
7 that correct?

8 CAPTAIN MORROW: We are, Your Honor.

9 THE COURT: What is that?

10 CAPTAIN MORROW: With respect for the
11 tweets we're offering for (INAUDIBLE) that is the
12 e-mail.

13 THE COURT: I'm sorry, I interrupted you.
14 Authentication and hearsay with respect to Prosecution
15 Exhibit 31 and 32, right?

16 CAPTAIN TOOMAN: Yes.

17 THE COURT: About prosecution 109 you have,
18 your objection to that one was?

19 CAPTAIN TOOMAN: 109 would be the same,
20 Your Honor, as well as relevance.

21 THE COURT: Do you have any redirect?

1 CAPTAIN MORROW: A couple of questions.

2 REDIRECT EXAMINATION

3 Q Do you know how to use the Internet?

4 A Yes.

5 Q Do you know how to navigate a web page on
6 the Internet?

7 A Yes.

8 Q And in this case have you navigated to web
9 pages on the Internet?

10 A I have.

11 Q And give me a couple of example of web
12 pages you've navigated to on the Internet as part of
13 the investigation?

14 A The Wikileaks website, the Facebook profile
15 of PFC Manning, the Twitter messages that we've
16 discussed as well as the archived versions of various
17 other sites. More examples?

18 Q No, I think that's enough. Thank you.

19 THE COURT: All right, temporarily excuse
20 this witness or permanent excuse.

21 CAPTAIN TOOMAN: I was personally under the

1 impression that I just voir dire the witness.

2 THE COURT: You have further cross
3 examination?

4 CAPTAIN TOOMAN: Yes, ma'am.

5 THE COURT: I didn't realize that. You're
6 still under direct examination.

7 CAPTAIN MORROW: I'm looking for my direct,
8 so give me a second.

9 THE COURT: Would the this been a good time
10 to recess the Court for about ten minutes.

11 CAPTAIN MORROW: Absolutely, Your Honor.

12 CAPTAIN TOOMAN: No objection, Your Honor.

13 THE COURT: The Court is in recess until
14 1715.

15 (Hearing recessed at 1717 p.m.)

16 (Hearing resumed at 1725 p.m.)

17 THE COURT: You're still under oath.

18 (INAUDIBLE)

19 CAPTAIN MORROW: At this time the
20 prosecution has no further questions.

21 THE COURT: Captain Tooman.

1 CAPTAIN TOOMAN: Before I begin my cross
2 examination I'd like to ask two voir dire questions of
3 the witness with respect to the tweets and the
4 government assertion that they would like to admit it
5 for the effect of the listener.

6 THE COURT: Okay.

7 VOIR DIRE EXAMINATION

8 Q Agent Mander, did you do find any evidence
9 that PFC Manning -- over the course of your
10 investigation, did you find any evidence that PFC
11 Manning actually reviewed those tweets?

12 A I personal did not.

13 Q Did you look for that evidence?

14 A I did not personally look for that
15 evidence.

16 CAPTAIN TOOMAN: I guess for our objection,
17 Your Honor, were that relevance if there's no the
18 evidence that PFC Manning actually saw at tweets there
19 could be no effect on him.

20 THE COURT: So you have three objections to
21 all three of them?

1 CAPTAIN TOOMAN: Yes, ma'am.

2 THE COURT: (INAUDIBLE), authentication, or
3 hearsay.

4 CAPTAIN TOOMAN: Yes, ma'am.

5 THE COURT: Got it.

6 BY CAPTAIN TOOMAN:

7 Q Agent Mander, I'd like to talk just a
8 little bit about your investigation generally. Sort of
9 the tenant of your profession that if you do something
10 you document it.

11 A Yes.

12 Q And you had -- if you find a lead or a clue
13 you're going to document that as well?

14 A Yes.

15 Q If you talk to a witness you'll document
16 that?

17 A Yes.

18 Q If you researched something and uncover
19 something relevant to the investigation would you
20 document it?

21 A Yes.

1 Q Now, over the course of your investigation
2 in this case you did a lot of different types of things
3 you talked about on direct examination. You did
4 witness interviews?

5 A Yes.

6 Q I think you reviewed e-mails?

7 A Yes.

8 Q You've reviewed chats?

9 A Yes.

10 Q You also reviewed financial transactions?

11 A Could you be more specific?

12 Q Did you look at bank records as well?

13 A I don't remember specifically looking at a
14 banking records personally.

15 Q Okay. So when you're looking at those
16 various things, if you have something important you put
17 it up, you write it down in an AIR and you notify
18 everyone who is involved that we have this lead and
19 let's go after this, correct?

20 A Generally speaking, yes.

21 Q Now, thinking about all the things that you

1 looked at in this case you looked at chats and e-mails
2 and witness interviews. When you were investigating
3 this case you knew what PFC Manning was accused of,
4 correct?

5 A Generally, yes.

6 Q You knew generally what the charges were
7 against him?

8 A Depending on what point of the
9 investigation initially, no, there weren't any charges
10 for extended period of time. I believe the charges at
11 some point were modified, and I don't know the legal
12 term for that but.

13 Q Okay. But when they were charges you knew
14 what they were and when the charges changed you knew
15 what they were at that point as well?

16 A Generally speaking, yes.

17 Q Over the course of your investigation you
18 didn't find any evidence that PFC Manning had
19 antiAmerican beliefs, correct?

20 A Well, as we discussed when we had an
21 interview, yourself and myself, there was one thing

1 that I mentioned to you that was brought up by the
2 witness of this case.

3 Q But not a witness you personally
4 interviewed?

5 A Correct.

6 Q So in the course of your investigation, and
7 I just want to talk about the things you did and the
8 things you looked at and the people you talked to.

9 A Okay.

10 Q You didn't find any evidence or any
11 indication that PFC Manning was antiAmerican that he
12 hated America?

13 A No.

14 Q You also didn't find any evidence that PFC
15 Manning was trying to help the enemy, that he wanted to
16 affirmatively give something to the enemy?

17 A Is that a question?

18 Q Yes. You never found anything in witness
19 interviews, chats, e-mails where PFC Manning said
20 something like I want to help the enemy?

21 A I did not find anything where he said he

1 wanted to help the enemy.

2 Q Okay. You also reviewed a lot of
3 communications with individuals and you would have
4 noted any contact with the more than nationals you
5 would have noted, correct?

6 A Correct.

7 Q And you found out some because PFC Manning
8 lived in whales nor a while so you had foreign contact
9 right?

10 A Yes.

11 Q For a while that was kind of a focus of
12 your investigation you thought that maybe PFC Manning
13 was working for some sort of foreign intelligence
14 service, correct?

15 A That wasn't really the CID focus. That was
16 probably more of the Army military intelligence focus.

17 Q But when you were conducting your
18 interviews you certainly explored that idea, didn't
19 you?

20 A Yes, that was a question I would have
21 asked.

1 Q And you didn't find any evidence that he
2 was associated with any sort of foreign intelligence
3 service, correct?

4 A I did not personally find that, no.

5 Q You also didn't find any evidence that PFC
6 Manning was paid in any way or had any releases he may
7 have done?

8 A I did not personally find out find any
9 information that he was paid.

10 Q I'm going to retrieve what's been marked as
11 Defense Exhibit fox trot for identification.

12 I'm handing you defendant's Exhibit fox
13 trot for identification to the witness.

14 Agent Mander, do you recognize that
15 document?

16 A Yes, I do.

17 Q What is it?

18 A This appears to be a printout of a web page
19 on WikiLeaks.org website.

20 Q How do you know that?

21 A I printed this out and my initials appear

1 on the lower right-hand corner of each page.

2 Q How did you find that document?

3 A This document is a variation of the other
4 documents that the prosecution mentioned earlier.

5 THE COURT: Which other document?

6 THE WITNESS: I believe it's Exhibit 110,
7 if I'm not mistaken.

8 CAPTAIN TOOMAN: Prosecution 110, Your
9 Honor.

10 THE WITNESS: And this document, the other
11 document as well as some other information relating to
12 this most wanted leaks of 2009 document were revealed
13 via search on the Internet specifically using Google.

14 BY CAPTAIN TOOMAN:

15 Q And you did that search?

16 A I did that search.

17 Q And you printed that document?

18 A I printed that document.

19 Q I'm going to retrieve document fox trot for
20 identification. I request permission to publish
21 (INAUDIBLE) available?

1 THE COURT: Proceed.

2 BY CAPTAIN TOOMAN:

3 Q (INAUDIBLE) now, you testified about a
4 similar document on direct. What is different about
5 this document, Agent Mander?

6 A Well, the most notable difference from
7 Exhibit 110 on the top there where it says draft colon
8 the most wanted leaks of 2009. On the other document
9 Exhibit 110 document at the end of 2009 there's the
10 word hyphen and then the word sort, S-O-R-T.

11 Q Would you agree with me that this document
12 also includes a little bit more information at the top
13 of the document?

14 A The documents are similar, but different.

15 Q Would you agree that defense Exhibit fox
16 trot has more introductory information than prosecution
17 110?

18 A Yes in the list of countries on the right
19 versus the left and there's obviously some other
20 differences as well.

21 Q The biggest difference would be, you would

1 agree with me, I'm pointing you to the very first
2 paragraph here at the pop. That paragraph does not
3 appear on the version introduced by the government,
4 correct?

5 A I would have to see both documents again.

6 Q Okay. I'll retrieve prosecution 110.

7 CAPTAIN TOOMAN: I'm going to hand
8 Prosecution 110 to the witness.

9 THE WITNESS: I'm sorry, could you repeat
10 your question?

11 BY CAPTAIN TOOMAN:

12 Q Would you agree that the introductory
13 portion of the defense Exhibit fox trot for
14 identification is not included on Prosecution Exhibit
15 110?

16 Just there on the first page -- actually,
17 look through the entire document and just make sure for
18 me that it doesn't appear anywhere in there.

19 A (Witness reviewing document.)

20 The paragraph on the displayed version does
21 not appear to be in this document.

1 CAPTAIN TOOMAN: I'm going to retrieve
2 Prosecution 110 for the witness.

3 THE COURT: May I see both of those
4 exhibits quickly. Have you introduced yours yet?

5 CAPTAIN TOOMAN: Not yet.

6 THE COURT: Go ahead.

7 BY CAPTAIN TOOMAN:

8 Q You would agree with me with this version
9 defense, Exhibit fox trot, includes more information
10 about how this list was populated, correct? If you
11 need to take a moment to read that, please, do.

12 A This version is an editable version so that
13 general members of the public can edit this version.

14 Q And what this version says at the top is
15 that the most wanted leaks, the concealed documents
16 (INAUDIBLE) the concealed documents are recordings most
17 sought after by countries journalists, activists,
18 historians, lawyers, police, or human rights
19 investigators. Do you agree with that?

20 A That's a paraphrase of what it says, sir.

21 Q A paraphrase or literally what it says?

1 A Paraphrase of what it says.

2 Q Okay. We'll try it again. 2009's most
3 wanted leaks-the concealed documents are recordings
4 most sought after by a countries journalists,
5 activists, historians, lawyers, police, or human rights
6 investigators?

7 A That's literally what it says.

8 Q And that paragraph didn't appear on the
9 prosecution exhibit, correct?

10 A It did not.

11 Q And you would agree with me that this
12 demonstrates kind of the purpose of WikiLeaks. Would
13 you agree with that?

14 A Can you be more specific?

15 Q Sure. You would agree what this statement
16 at the beginning sits out why WikiLeaks wants these
17 documents they want it because they have been?

18 CPTAIN MORROW: Objection, Your Honor,
19 speculation.

20 THE COURT: Ask some foundational questions
21 about whether he knows that why WikiLeaks wants

1 documents.

2 BY CAPTAIN TOOMAN:

3 Q Agent Mander, do you know why WikiLeaks
4 wants documents?

5 A I don't have the actual knowledge of were
6 they want specific documents. I presume that.

7 THE COURT: You presume based on?

8 THE WITNESS: My experience knowledge of
9 this case.

10 BY CAPTAIN TOOMAN:

11 Q Would this document also aid your
12 presumption?

13 A Can you clarify your question.

14 Q When reading this introductory paragraph
15 does that I guess informed your understanding of why
16 WikiLeaks wants documents?

17 A It just seems to say that in 2009 those are
18 the most wanted documents by those groups of people.
19 It doesn't necessarily say why WikiLeaks wants them.

20 Q Let's move down to this paragraph. Can you
21 see where I'm pointing here? I'm pointing to the

1 paragraph that starts with document are other materials
2 added (INAUDIBLE) must and you would agree with me that
3 it says can likely to have political, diplomatic,
4 (INAUDIBLE) and historic impact on release?

5 A That is what it says.

6 Q Okay. Now, having read that and seen that,
7 does that inform your understanding of what WikiLeaks,
8 the purpose of WikiLeaks and what they want?

9 A My understanding of this document is that
10 they were trying to create a list of documents that
11 would be the categories listed below where I just
12 pointed out, things that are political, diplomatic, or
13 other things that would be impactful.

14 CPTAIN TOOMAN: Your Honor, at this time
15 the defense offers Exhibit fox trot for identification
16 of defense Exhibit fox trot.

17 THE COURT: Any objection?

18 CPTAIN MORROW: One moment, Your Honor.

19 Your Honor, the objection would be
20 authentication. We're not sure what this document
21 purports to be based on at least the witness'

1 testimony.

2 THE COURT: All right. Tell me one more
3 time, Prosecution Exhibit 110, which I do admit. I'm
4 not asking the government, just the witness a question
5 here. Prosecution Exhibit 110 I would like to see that
6 exhibit now, if I could, and defense Exhibit fox trot
7 again.

8 Special Agent Mander Prosecution Exhibit
9 110 you've already testified that it's different
10 from defense Exhibit fox trot. Both of those
11 exhibits, defense fox trot for identification have
12 your initials and printed Saturday, June 1st on the
13 bottom right; is that correct?

14 THE WITNESS: That is correct.

15 THE COURT: It looks like the one defense
16 Exhibit 110 is printed at 1539:36 and the difference
17 Exhibit fox trot for identification was 1637:47. So
18 defense Exhibit fox trot came after the government
19 exhibit?

20 THE WITNESS: If that's the way the times
21 (INAUDIBLE) yes, ma'am.

1 THE COURT: I just want to ask the witness
2 a couple of questions. I'm going to hand you both of
3 the exhibits and can you just walk me through how you
4 got them both and what you did?

5 THE WITNESS: There was some other
6 documents that accompanied these. Are those available?

7 CAPTAIN MORROW: Your Honor, those have
8 been produced in discovery, but they're not part of the
9 exhibit.

10 THE COURT: Okay. Can you tell me what you
11 did without referencing those particular documents.

12 THE WITNESS: Ma'am basically conducted a
13 search using I believe the words the most wanted leaks
14 of 2009 using Google. There were numerous results that
15 came as a result of that search and the first I believe
16 it was the first four contained three versions of this
17 list or similarities to this list and the prosecution
18 Exhibit 110 is one version of that list.

19 I guess defense Exhibit -- excuse me,
20 fox trot is another version of this list, and there
21 was additionally a third shorter version as well as

1 a video related to the list.

2 THE COURT: And did you print -- you
3 printed both versions yourself, right?

4 THE WITNESS: I believe I printed all three
5 versions.

6 THE COURT: Thank you. Government
7 objection is authentication and I admit Prosecution
8 Exhibit 110. What's the basis for admission on the
9 authentication?

10 CAPTAIN MORROW: Your Honor, the objection
11 is relevance. I'm not sure what the relevance of this
12 specific exhibit is.

13 THE COURT: Well, if prosecution Exhibit
14 110 is relevant why isn't this one relevant?

15 CAPTAIN MORROW: The foundation for this
16 one might be relevant. Additionally, Your Honor, we'd
17 also object on the basis of hearsay. What are they
18 offering it for?

19 THE COURT: Go ahead.

20 CAPTAIN TOOMAN: Would you like me to
21 respond to that?

1 THE COURT: Yes, please.

2 CAPTAIN TOOMAN: Your Honor, I guess most
3 notably admitted there's the exact same thing done the
4 exact same way so it should be admissible. With
5 respect to hearsay we would say rule 106 completeness
6 if this is basically the same version. If you look at
7 you recall it is identical with the exception of a
8 hyphen sort.

9 THE COURT: Are the same URL with the
10 exception of the hyphen sort, we need to put that on
11 the two exhibits.

12 You pulled it up, you got -- normally
13 when you search Google something you get a list of
14 things.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: So they listed one, two, three,
17 four or?

18 THE WITNESS: There was -- I believe there
19 was ten results as a result of the search on the page
20 initially the Google results and then within the first
21 four results were different versions of this list, and

1 these are two versions of that list.

2 THE COURT: I'm going to overrule the
3 objection. Anything else?

4 CAPTAIN MORROW: We (INAUDIBLE) assume the
5 truth of the statement or the truths of the statement.

6 THE COURT: Why does the rule of
7 completeness assume the rule of completeness?

8 CAPTAIN MORROW: (INAUDIBLE)

9 THE COURT: Rule 106 do formal
10 (INAUDIBLE) be one document if part of the document
11 that's admitted than you decide to bring in the rest
12 of the document.

13 CAPTAIN MORROW: May I ask him a couple of
14 questions about the difference of the document?

15 THE COURT: Go ahead.

16 BY CAPTAIN MORROW:

17 Q Agent Mander, you said that you searched
18 for Wikileaks most wanted and came up with a number of
19 results?

20 A Yes.

21 Q What does that mean when a number of

1 results come up?

2 A Could you be more specific.

3 Q Were they in the same location on the
4 Internet?

5 A Both documents were on the WikiLeaks.org
6 website.

7 Q But it wasn't exactly, you had to navigate
8 from that website to another place on the website; is
9 that correct?

10 A When I initially went to the main
11 Wikileaks.org recently on June first you could not
12 directly navigate to either one of these litigations.

13 Q But the -- okay.

14 CAPTAIN MORROW: No further questions.

15 THE COURT: Now I'm confused again. You
16 printed out those documents and they say June 1st. How
17 would you print them out if you never got them?

18 THE WITNESS: When I used Google I used the
19 search term the most wanted leaks of 2009. That
20 resulted in numerous search results. These were two of
21 those results. If you go to the WikiLeaks.org website

1 directly without searching for it there are many links
2 and other various bits of information on this page,
3 however, there is nothing that will immediately take
4 you, or nothing you can click on that will take you to
5 either one of these lists, their main web page, their
6 home page.

7 Does that make it any clearer, ma'am?

8 THE COURT: Let me just make sure I
9 understand your testimony. You went on Google and this
10 isn't Google cache, this is just Google?

11 THE WITNESS: Just Google.

12 THE COURT: And you found the difference
13 between fox trot and prosecution 110 in your search?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: And they come up two of the ten
16 results that you found?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: And then if on June 1st -- and
19 you printed it ought off Google?

20 THE WITNESS: I printed it off the actual
21 location where the documents occurred.

1 THE COURT: And then you went to the
2 WikiLeaks website and accessed them that way?

3 THE WITNESS: You cannot navigate to them
4 from the home page of the WikiLeaks.org website,
5 meaning you could not click on anything on that home
6 image that would take you to these documents.

7 THE COURT: I think I understand. All
8 right.

9 THE WITNESS: If I may expound on that. I
10 believe there was a question in regards to, could the
11 general public find these on the WikiLeaks website just
12 by going to the main website and presumably they
13 wouldn't. They would find them doing a search, but not
14 going to the website directly.

15 THE COURT: Okay. I'm still in the same
16 position I was in before Prosecution Exhibit 110 comes
17 in.

18 CAPTAIN MORROW: We'll withdraw the
19 objection.

20 THE COURT: To the (INAUDIBLE) has the same
21 rulings. It's admissible. Do you want to give it to

1 me, I'll admit it.

2 CAPTAIN TOOMAN: Retrieve defense Exhibit
3 fox trot and Prosecution Exhibit 110 for the witness,
4 and, Your Honor, that's exhibit fox trot and I'm going
5 to hang onto this.

6 THE COURT: Exhibit fox trot is admitted.

7 CAPTAIN TOOMAN: Ma'am, permission to
8 publish Prosecution Exhibit 110.

9 THE COURT: Go ahead.

10 BY CAPTAIN TOOMAN:

11 Q I'm placing on the overhead Prosecution
12 Exhibit 110, page 9. Agent Mander, you spoke on direct
13 about a number of Intel Link searches that you found
14 that corresponded to things on Prosecution Exhibit 110,
15 correct?

16 A I did not actually find the intel links
17 searches. That was someone else from the forensics
18 team.

19 Q You look at the Intel Link searches and
20 testified that some of the things -- the terms searched
21 were items that were similar to things on Prosecution

1 Exhibit 110, correct?

2 A That's correct.

3 CAPTAIN TOOMAN: At this time I'd like to
4 retrieve Prosecution Exhibit 81 and ask the witness to
5 move to the panel box.

6 THE COURT: All right.

7 BY CAPTAIN TOOMAN:

8 Q I'm handing the witness what's marked as
9 Prosecution Exhibit 81.

10 Agent Mander, what I'd like to do is we're
11 going to go through this list and I'd like you to tell
12 me whether or not there are any searches in Prosecution
13 Exhibit 81 that correspond with the item on the list.
14 Okay?

15 CAPTAIN MORROW: Your Honor, the government
16 will stipulate to that. There are no (INAUDIBLE).

17 THE COURT: What do you want him to do?

18 CAPTAIN TOOMAN: Your Honor, the government
19 highlighted I think three instances where PFC Manning,
20 or, rather, I should say, computers associated with PFC
21 Manning searched for terms that correspond with items

1 listed on this list.

2 THE COURT: You want to go through all of
3 the ones where they don't correspond, and government
4 you're willing to stipulate the those three are the
5 only ones that correspond?

6 CAPTAIN MORROW: Yes, Your Honor.

7 THE COURT: In light of that, do you need
8 to continue?

9 CAPTAIN TOOMAN: No, ma'am. I will
10 retrieve Prosecution 81 from the witness. I'll hand
11 that back to the government.

12 BY CAPTAIN TOOMAN:

13 Q Agent Mander, if you would please return to
14 the witness stand. I'm going to hand you Prosecution
15 110, and I'd like for you to count how many items are
16 listed in that exhibit, please?

17 A Could you define the word item?

18 Q I'm sorry, under the United States. I
19 think it starts on page 9.

20 A (Witness reviewing document.)

21 You say items there are bullets.

1 CAPTAIN TOOMAN: I'll retrieve the exhibit
2 from the witness and I will publish this if that's all
3 right with Your Honor?

4 THE COURT: That's fine.

5 BY CAPTAIN TOOMAN:

6 Q Page 9 of Prosecution Exhibit 110. So
7 Agent Mander, if you could please count the items on
8 under United States there?

9 A Can you move it down a little bit?

10 Q Sure. This way?

11 A Yes, that's fine.

12 Q Okay.

13 A When you say items, we're talking about the
14 bulleted items, the subbullets?

15 Q Yes.

16 A They're at least five things that I can see
17 different categories, I guess you could say.

18 Q Let's go with important bulk databases.
19 How many items are listed under important bulk
20 databases?

21 A There are three categories of items.

1 Q The next is federal politics?

2 A Correct.

3 Q How many items are listed there?

4 A There are six.

5 Q Okay. And then next do you see military
6 intelligence. I'm going to move this up so we can see
7 all of that subsections. And if you could please count
8 I think on here count each bullet and subbullet --
9 would you agree with me that the subbullets are
10 different than the main bullet?

11 A Sure, yes.

12 Q Or unique in some way?

13 A Yes.

14 Q In you would count those bullets for me.

15 A Appears to be 21 bullets there.

16 Q Okay. And I'm now going to remove page 9
17 of the exhibit and put on page 10 to the overhead. Can
18 you see that okay, Agent Mander?

19 A Yes.

20 Q We're still under military intelligence.
21 So we're continuing from 21?

1 A (Witness reviewing document.)

2 Fifty-five excuse me 56.

3 Q Fifty-six visibles on the screen there?

4 A Yes.

5 Q And the last one you see just for the
6 record is blueprints and floor plans of all unmentioned
7 facility in the federal relocation arc including
8 historical ones?

9 A That's correct.

10 Q So 54 to there under military and
11 intelligence, correct?

12 A Didn't I say 56?

13 Q I'm sorry, 56. I'm now moving page 10 up.
14 How many under banking?

15 A There two bulleted items.

16 Q And one under environment?

17 A That is correct.

18 Q And two under media?

19 A That is correct.

20 Q And two under religion?

21 A That is correct.

1 Q I'm removing page 10 and placing page 11 on
2 the overhead and will continue with religion. How many
3 more do you have there?

4 A There are six more on this page.

5 Q I'm removing page 11 and returning
6 Prosecution Exhibit 110 to the court reporter.

7 CPTAIN TOOMAN: No further questions, Your
8 Honor.

9 THE COURT: Redirect?

10 CPTAIN MORROW: No, Your Honor.

11 THE COURT: Temporarily excuse or
12 permanently excuse (INAUDIBLE).

13 CPTAIN MORROW: Temporary, Your Honor.

14 THE COURT: Agent Mander, you're
15 temporarily excused. Don't discuss your testimony or
16 knowledge of the case with anyone other than counsel
17 (INAUDIBLE). You can step down.

18 The presentation of your case the next
19 piece of it is stipulated of expected testimony or
20 is it a witness?

21 MAJOR FEIN: The witness is sitting right

1 out here ready to go.

2 THE COURT: A long or a short witness?

3 MAJOR FEIN: United States thinks pretty
4 short.

5 THE COURT: Does either side have any
6 objection to continuing?

7 MR. COOMBS: No, Your Honor.

8 MAJOR FEIN: The United States calls
9 Ms. Sheila Glenn.

10 Whereupon,

11 SHEILA GLENN,
12 called as a witness, having been first duly sworn to
13 tell the truth, the whole truth and nothing but the
14 truth, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY CAPTAIN OVERGAARD:

17 Q And you are Sheila Glenn?

18 A Yes, I am.

19 Q You work at Fort Meade, Maryland?

20 A Yes, I do.

21 Q What unit do you work for at Fort Meade?

1 A I work for Army counterintelligence
2 (INAUDIBLE) center.

3 Q And what is a MI (INAUDIBLE)?

4 A (INAUDIBLE) current counterintelligence
5 activities to the protect classified information and
6 technologies and to detect, identify foreign threats
7 against U.S. Army.

8 Q And do you work for a particular subgroup
9 under that?

10 A Yes, I do. I work for the Army
11 counterintelligence Center.

12 Q What is the Army Counterintelligence
13 Center?

14 A Army Counterintelligence Center produce
15 timely accurately comprehensive multi-discipline
16 analysis to support combat terrorism programs, ground
17 system technologies, and investigation operation
18 activities.

19 Q And do you work for a specific branch under
20 the Army Counter --

21 A Yes, I do.

1 Q What branch is that?

2 A I work form cyber counterintelligence
3 assessment branch.

4 Q And what does a cyber counterintelligence
5 assessment branch do?

6 A That counter cyber intelligence assessment
7 branch identifies and performs analysis on cyber
8 counterintelligence threats to the United States Army.

9 Q And what is your job at the Army at the
10 cyber counterintelligence branch?

11 A My job is the (INAUDIBLE) certain analysts
12 and my job is to (INAUDIBLE) and also soldiers and also
13 to edit and review documents for content, accuracy,
14 and.

15 Q How many analysts do you have there?

16 A We have five analysis that work under me.

17 Q How long have you been in that senior
18 analyst position?

19 A I've been in that position for two years.

20 Q How long have you been with the
21 (INAUDIBLE)?

1 A Since 2000.

2 Q What did you do before that?

3 A I was in military for 20 years and I
4 retired as Sergeant First Class.

5 Q What did you do in the military?

6 A I spent five years as a crypto (INAUDIBLE)
7 equipment repair, 15 years as an intelligence analyst.

8 Q What kind of intelligence analyst?

9 A All source intelligence analyst.

10 Q And what has been your focus at the 907.

11 You said you're under the cyber assessments branch?

12 A My focus is cyber counterintelligence.

13 Q And what does that mean?

14 A That means that I look at the foreign cyber
15 threat, identify and assess that threat to threat
16 United States Army technologies and programs.

17 Q What sorts of -- you say there are five
18 analysts that work would under you?

19 A Yes.

20 Q What sorts of work product do the cyber
21 analysts in the cyber CI branch of A6 produce?

1 A The cyber CI analyst produce special
2 reports, counterintelligence notes, input the system
3 and input the (INAUDIBLE) cyber inputs.

4 Q We'll just focus on the A6 special reports
5 prepared by the cyber CI branch. Can you tell us how
6 that one is distinct from the other ones that you
7 named?

8 A The A6 special report is a comprehensive
9 document. It uses I the full spectrum analysis and it
10 uses predictive analysis.

11 Q And are they different types of these
12 special A6 reports?

13 A Basically A6 special reports based on
14 requirements, request of information, or
15 self-initiated.

16 Q What's the purpose of this self-initiated
17 cyber CI special report?

18 A In a self-initiated report we identify
19 potential threat to U.S. Army and we inform the
20 commander about that treat to the organization.

21 THE COURT: You said there are three of

1 them, requirements, something else and?

2 THE WITNESS: Request information.

3 THE COURT: Thank you.

4 BY CAPTAIN OVERGAARD:

5 Q Just focusing in on the self-initiating
6 cyber CI special reports, can you tell us how those are
7 prepared?

8 A Our first analyst comes up while doing
9 their research they come across some information that
10 they think might be of a CI interest in the United
11 States Army. If it is, then they talk about it with
12 their supervisor and see if there's something that, you
13 know, the supervisor will approve for them to go ahead
14 and produce.

15 So then an analysts list what they know and
16 what they don't know about that event or organization
17 or whatever their writing about. Once they look at
18 what they have and what they don't have, then they
19 start doing research. They do the research on
20 classified and unclassified reporting.

21 Q Where do they conduct this research?

1 A They conduct this research on classified
2 systems, SIPRnet and unclassified systems.

3 Q What kinds of things are they looking at
4 when they are conducting their research?

5 A They're looking at everything. They're
6 looking at human reporting, they're looking at a lot
7 (INAUDIBLE) imagery reporting and massive reporting.

8 Q So after they -- after an analyst does this
9 research, what's the next step to in creating the
10 self-initiating special report for cyber CI?

11 A Once they finish their research, the
12 analyst look at the order of the stuff they want to
13 compile. So basically they do the outline and they put
14 the information that they collected within that outline
15 and then they need to answer the questions, the who,
16 what, why, where, and how, and then they want to see
17 what's next and then they also look at the impact
18 against U.S. Army interests and U.S. interests.

19 Q And then do they -- when do they start
20 writing the product?

21 A After they collect all the information and

1 put it into the outline then they start writing the
2 product.

3 Q And after -- I guess what's the process
4 then for writing that product?

5 A Okay. For writing the product you pull all
6 intelligent information together. You look at the
7 impact. You go through the information and then you
8 put it in a template. Template you have a template for
9 these reports. You put it in a template and make sure
10 that you can answer all the who, what, why, where, and
11 what's next.

12 Q And after that report is drafted, what
13 happens to it?

14 A After the report is drafted it goes to the
15 senior analyst who reviews it for content, accuracy,
16 and grammar, and once the senior analyst reviews it,
17 then it goes out for coordination, external
18 coordination.

19 Q I'm going to step back a little bit.
20 What's the content and accuracy verification? What
21 does that entail?

1 A When we look at it for content and
2 accuracy, we're making sure that information within the
3 report is correct. We fact check the sources that are
4 used in the report to make sure that they agree with
5 the information within the report states and then we
6 check for grammar.

7 Q And then you said you send it out for
8 coordination?

9 A Yes.

10 Q What does that mean?

11 A When we send it out to coordination to
12 external sources, we send it to other intelligence
13 agencies so they can actually review the report to make
14 sure that have the information accurately.

15 Q And what happens after the external
16 coordination?

17 A When we did get our results back from the
18 external coordination by checking the comments that the
19 organizations put within the report and if we agree
20 with the comments then we incorporate them within the
21 reports. If we disagree with the comments then we put

1 an alternative analysis statement in that report.

2 Q Is that required?

3 A Yes, it is.

4 Q And what happens after the external
5 coordination, what happens to the product next?

6 A External coordination of the products
7 reviewed by the branch chief.

8 Q It goes -- what, if anything, is new added?

9 A If anything is new added it goes back to
10 the field analyst who reviews that information and then
11 it goes to the branch chief.

12 Q What does a branch chief do?

13 A The branch chief reviews the product again
14 for content, accuracy, and grammar.

15 Q What happens after that?

16 A After the product is reviewed by the branch
17 chief then it goes to the editors for them to review
18 it.

19 Q Again, for content and accuracy?

20 A They review it for grammar and content --
21 grammar and accuracy. They don't review it for

1 accuracy, they review it for grammar.

2 Q So what happens after the editing is done?

3 A Once the editors finish their job then it
4 goes to the director or deputy director for review for
5 content, accuracy, and grammar.

6 CPTAIN OVERGAARD: Your Honor, I'm going
7 to retrieve prosecution 45 for identification.

8 BY CPTAIN OVERGAARD:

9 Q I'm handing Prosecution Exhibit 45 for
10 identification to the witness. Can you tell us what
11 that is?

12 A It's a A6 special report.

13 Q How do you know that?

14 A Because it states on the top of the
15 document A6 special report and it has an A6 serial
16 number on it.

17 Q And you're familiar with those documents?

18 A Yes, I am.

19 Q How are you familiar with it?

20 A We write them.

21 Q Have you written them yourself?

1 A Yes, I have.

2 Q And what type of product is in that
3 document or is that report in particular?

4 A This is a self-initiated document.

5 Q And who wrote that product?

6 A Ms. Mike (INAUDIBLE).

7 Q Who is Mike Corvat?

8 A He was the senior analysis at the time.

9 Q What was your involvement in creating that
10 product?

11 A Mike discussed the subject with me and I
12 reviewed it for content and grammar and accuracy.

13 Q So you're familiar with the content?

14 A I'm familiar with the content, yes.

15 Q And why did you review the product?

16 A Because we have a two review process within
17 our organization.

18 Q Is this a product you reviewed in 2008?

19 A Yes, it is.

20 Q Is it different in any way?

21 A Yes, it is.

1 Q How is it different?

2 A It's been declassified and is missing
3 notes.

4 Q Is the content otherwise the same?

5 A Yes, it is.

6 Q And what happened to the product, what
7 happened to this product in particular after it went
8 through the process that you discussed before?

9 A It was posted to our website.

10 Q Where is your website?

11 A On SIPRnet and JWICS.

12 Q Is that product still on the --

13 A Yes, it is.

14 Q How do you know that?

15 A I checked it.

16 Q (INAUDIBLE) United States moved to
17 admission what has been marked as Prosecution
18 Exhibit 45 for identification into evidence as
19 Prosecution Exhibit 45.

20 CPTAIN TOOMAN: No objection, Your Honor.

21 THE COURT: May I see it, please?

1 Prosecution Exhibit 45 for identification is admitted.

2 Does the witness need the document back?

3 CAPTAIN OVERGAARD: Yes, ma'am.

4 BY CAPTAIN OVERGAARD:

5 Q Ms. Glenn, can you tell us the name of that
6 product that I handed you?

7 A Wikileaks.org on-line reference to foreign
8 intelligence services or insurgents or terrorist
9 groups.

10 Q What is that letter and number combination
11 under the title?

12 A There is the production center, first four
13 digits, the second is the function code, the third is
14 the serial number, and the last is the fiscal year.

15 Q And under that what is the publication date
16 of this document?

17 A 18 March 2008.

18 Q And how about the information cutoff date?

19 A 28th February 2008.

20 Q Can you tell us what the information cutoff
21 date means?

1 A That's the last current reporting that's
2 contained in this report.

3 Q What does it say under the publication
4 date?

5 A Last security information, unauthorized
6 disclosure subject to criminal sanctions.

7 Q What is the national security information?

8 A Information that has been determined that
9 it needs to be protected from unauthorized release.

10 Q What specifically types of national
11 security information is in here?

12 A Intelligence reports produced by
13 originators.

14 Q And you already us what the external
15 coordination means, but can you tell us what that line
16 represents?

17 A The coordination?

18 Q Yes.

19 A The organization that perform the external
20 coordination.

21 Q So that it was sent to you to coordinate

1 with?

2 A Yes.

3 Q And how about that next line? Can you tell
4 us what that means?

5 A Which one?

6 Q The product response to headquarters,
7 Department of Army?

8 A -- that's.

9 THE COURT: Can we move this so you can
10 follow along.

11 CAPTAIN OVERGAARD: Yes, ma'am. I can
12 publish a copy that I have right here, ma'am.

13 BY CAPTAIN OVERGAARD:

14 Q We're at the line beginning this product.
15 Can you just tell us again what that means?

16 A That's the production requirement that was
17 used to produce this document, to authorize the
18 production of this document.

19 Q And then how about that last line there
20 that says A6 production or product identification.

21 What does that mean?

1 A That's the A6 serial number of that
2 product.

3 Q Does that serial number have any specific
4 meaning?

5 A The Army designates A6, the 08 is the
6 fiscal year, and the serial number is the same as the
7 one above (INAUDIBLE) the system numerical order of the
8 reports.

9 Q So there's just --

10 A One, two, three, four, five, six on up.

11 Q And you mentioned before that you have
12 templates for your documents?

13 A Yes, we do.

14 Q What is the template for this document?

15 A The template for this document is the
16 title, purpose, executive summary, key judgments
17 background, discussion, conclusion intel gaps,
18 conclusion, and contact.

19 Q Intel gaps and conclusions?

20 A And point of contact.

21 Q In 2008 that was a template you used?

1 A Yes, in 2008 that was the template we used.

2 Q Can you just tell us a little bit about how
3 this self-initiated product was prepared, this specific
4 product?

5 A This product was doing research and came
6 across WikiLeaks.org and he thought it was a CI
7 concern.

8 CPTAIN TOOMAN: Objection. This witness
9 would have no personal knowledge of what prompted
10 Mr. Horbach to write this document.

11 BY MS. OVERGAARD:

12 Q Are you testifying to your personal
13 knowledge?

14 A Yes, I am, because I discussed this with
15 Mr. Horbach during that time frame.

16 CPTAIN TOOMAN: We would object based on
17 hearsay.

18 THE COURT: What's the relevance
19 (INAUDIBLE).

20 CPTAIN OVERGAARD: One moment, please,
21 Your Honor. Ma'am, we'll stick with her personal

1 observation and not any objection.

2 THE COURT: Objection, sustained.

3 BY CAPTAIN OVERGAARD:

4 Q Can you tell us what specifically was done
5 to create this self-initiated product?

6 A The steps?

7 Q Yes.

8 A The --

9 Q The steps that Mr. Horbach took and the
10 steps that you took in assisting him?

11 A Mr. Horbach used the same procedures that I
12 talked about before. I assisted in research and in
13 reviewing and editing the document.

14 Q And are these documents, are they usually
15 32 pages long?

16 A The documents can be much smaller, five
17 pages, or they can be much larger, 150 pages.

18 Q What's the average, what are they usually?

19 A Average usually about 20 to 30 pages.

20 Q And let's talk a little bit about the
21 content of this report. Do you know what the purpose

1 of this document is?

2 A Yes. The purpose of this document was to
3 assess the counterintelligence threat on the U.S. Army
4 by WikiLeaks.org website.

5 Q According to the report and your knowledge
6 of the report, what is WikiLeaks?

7 A WikiLeaks is a organization that exposes
8 illegal activity.

9 CAPTAIN TOOMAN: Objection, Your Honor. I
10 don't believe this witness is in a position to
11 determine the legality of the WikiLeaks (INAUDIBLE).

12 CAPTAIN OVERGAARD: She's testifying about
13 what the product actually says.

14 THE COURT: All right. I'm not taking her
15 testimony to be a legal opinion of whether something is
16 legal or illegal. I'll take it to what purports to be
17 illegal activity. Go ahead.

18 CAPTAIN OVERGAARD: The purpose of
19 testimony is only to elicit what is actually in the
20 document not what WikiLeaks is or is not, but what is
21 written in the document.

1 THE COURT: Go ahead.

2 BY CAPTAIN OVERGAARD:

3 Q Can you tell us what Wikileaks is according
4 to this report?

5 A According to the report, it says that intel
6 of Wikileaks website is to expose unethical practices
7 and illegal (INAUDIBLE) and wrongdoing with respect to
8 corrupt corporations and governments.

9 Q And does the report comment on whether or
10 not Wikileaks is a news organization?

11 A Yes, it was.

12 Q And what does it say?

13 A It says that Wikileaks.org is not
14 considered a news organization.

15 Q And does it give some reasons for that?

16 A Yes, it does. It says that Wikileaks does
17 not vet their sources. Wikileaks does not put out
18 overview. Wikileaks does not provide source checking
19 or fact checking, and Wikileaks does not provide --
20 Wikileaks does not confirm the accuracy of the
21 information.

1 Q Does it talk about how WikiLeaks releases
2 information?

3 A Yes, it does.

4 Q What does it say about that?

5 A It says WikiLeaks.org uses anonymous
6 methods to post the information to the sites. It says
7 WikiLeaks.org uses its own code and software which can
8 open SSF (INAUDIBLE) difficult for foreign governments,
9 law enforcement agencies, and foreign businesses to
10 determine where a leak document was and who was
11 responsible for leaking the document.

12 Q Can you tell us what page you're looking
13 at?

14 A I'm looking at page 5.

15 Q What paragraph was that?

16 A Paragraph 3.

17 Q Does it talk about -- does this product
18 further talk about what type of behavior, this
19 anonymous releasing encourages?

20 A Yes. The document says that the anonymous
21 behavior encourages -- let my get the exact words.

1 It says that the WikiLeaks.org is normally
2 (INAUDIBLE) activities such as a theft of data,
3 documents, proprietary information and intellectual
4 property, possible violations of national security laws
5 regarding, espionage and possibly a violation of civil
6 laws in (INAUDIBLE) within the United States and
7 foreign countries.

8 Whistle blowers are in (INAUDIBLE) violate
9 laws (INAUDIBLE) whistle blowers protected from
10 retaliation (INAUDIBLE) that in countries that have
11 such laws on page 20.

12 Q What paragraph on page 20 were you looking
13 at?

14 A Page 20, paragraph 1.

15 Q This one or that one?

16 A That one.

17 Q Okay. The top paragraph, the half
18 paragraph?

19 A Page 19 it starts.

20 Q According to this what threat does
21 WikiLeaks pose?

1 A Wikileaks (INAUDIBLE) first protection
2 cyber intelligence -- first protection,
3 counterintelligence, information security, and
4 operation security threat.

5 Q That's in the key judgments?

6 A Yes, it is.

7 Q And what else or what does the key judgment
8 say about how it does this, how WikiLeaks does this,
9 just looking at key judgments on page 3?

10 A Okay. It says, recent on-line espionage
11 release of DoD and sensitive and classified information
12 provided foreign terrorists groups and insurgents and
13 other foreign adversaries with potentially actionable
14 information for targeting U.S. forces.

15 Q Does the report discuss any examples of
16 information that are posted on WikiLeaks?

17 A Yes. This report has three examples.

18 Q What were those three examples?

19 A The first example was the release of
20 (INAUDIBLE) for troops deployed in Iraq and
21 Afghanistan. The second example was release of a

1 standard operation procedures for joint task force.
2 The third example was a classified document released
3 that is produced by national ground intelligence
4 center.

5 Q What information in particular according to
6 this report was in the TONE, the table of equipment
7 that you just mentioned?

8 A Report.

9 Q Just in general what is in the TONE?

10 A The TONE had a list of all (INAUDIBLE) that
11 was deployed in Afghanistan and in Iraq.

12 Q And did the products say anything about the
13 dangers of releasing that information?

14 A Yes. It said that the products stated that
15 the release of that information could allow foreign
16 intelligence service terrorist groups, Iraqi insurgents
17 to conduct attacks against U.S. Army (INAUDIBLE).

18 CAPTAIN TOOMAN: Relevance, Your Honor.

19 THE COURT: What is the relevance?

20 CAPTAIN OVERGAARD: It's relevant to the
21 accused's knowledge.

1 THE COURT: All right. Overruled.

2 BY CAPTAIN OVERGAARD:

3 Q You can continue.

4 A The identification of vehicles, military
5 vehicles, could be used to select specific types and
6 replacements of improvised explosive devices.

7 Q And then you also mentioned that there was
8 a national ground intelligent report?

9 A Yes, it is.

10 Q What did that contain?

11 A That report discussed (INAUDIBLE) warfare
12 welfare and used against U.S. (INAUDIBLE).

13 Q And what was the classification of that
14 document?

15 A That document was classified secret.

16 Q And that was also released by WikiLeaks?

17 A Yes, it was.

18 Q And according to the product what could be
19 the impact to the United States if that were released?

20 A The impact would be insight into a
21 successful asymmetric warfare tactic technique and

1 protection operation against U.S. forces and coalition
2 forces.

3 Q And is this an intelligence product?

4 A Yes, it is.

5 Q And why is it an intelligence product?

6 A Because it contains intelligent documents
7 within it.

8 Q Do the U.S. government entities rely on
9 these intelligence?

10 A Yes, they do.

11 Q And was this product in particular used by
12 other U.S. government entities?

13 A Yes, they were.

14 Q How do you know that?

15 A Because people have discussed it.

16 Q Was this product ever released outside of
17 SIPRnet?

18 A No, it wasn't.

19 THE COURT: You're saying this product, are
20 you talking about the (INAUDIBLE).

21 CAPTAIN OVERGAARD: I'm sorry, ma'am. I'm

1 talking about the A6 report.

2 BY CAPTAIN OVERGAARD:

3 Q Was this was the 2008 version that you're
4 familiar with of the A6 report ever released outside of
5 SIPRnet?

6 A To my knowledge it was only posted on
7 SIPRnet and JWICS and never released out of those two
8 sites.

9 Q Was it ever unofficially released?

10 A To my knowledge, no, it wasn't.

11 Q You're not familiar with this document
12 being unofficially released anywhere else?

13 A Unofficially released?

14 Q Not officially, unofficially so --

15 A I'm sorry. To my knowledge, this document
16 was never unofficially released.

17 Q So --

18 A I'm never officially released. I'm sorry.

19 Was it unofficially released?

20 Q Yes. Do you know if this document was ever
21 released?

1 A To my knowledge, the document was never
2 released even unofficially. To my knowledge, this
3 document was never un-- officially released?

4 Q Can you tell us -- can you tell us,
5 according to the conclusion of this document, what must
6 be presumed about adversary access to WikiLeaks? I'm
7 just looking at page 21.

8 A It must be presumed that WikiLeaks
9 organization have or will receive sensitive or
10 classified documents in the future. It must also be
11 presumed that foreign adversaries will review and
12 assess any DoD or classified information posted on the
13 WikiLeaks.org website.

14 Q Thank you. Was this document ever posted
15 on WikiLeaks?

16 A Yes, it was.

17 Q And how do you know that?

18 A Because I was informed by an individual who
19 saw on it WikiLeaks.

20 Q Do you have firsthand knowledge?

21 THE COURT: Sustained.

1 BY CAPTAIN OVERGAARD:

2 Q Do you have firsthand knowledge of that?

3 A Yes, I do.

4 Q What is the firsthand knowledge of that?

5 A I received a phone call.

6 THE COURT: Sustained.

7 BY CAPTAIN OVERGAARD:

8 Q Did you see the product?

9 A It was e-mailed to me.

10 Q And it was from WikiLeaks?

11 A It was e-mailed to me from somebody who
12 took it off of the WikiLeaks.

13 Q How do you know that? What did it look
14 like?

15 A It looked like the exact same document that
16 was posted on our website.

17 Q Did it have any particular identifying
18 marks on it that made you think it was from
19 Wikileaks?

20 A No, not the document that I received.

21 Q Okay.

1 A Because I received it on our classified
2 system.

3 Q Okay. Thank you.

4 THE COURT: Cross?

CROSS EXAMINATION

6 Q I'm going to retrieve that exhibit from
7 you, Prosecution Exhibit 45. Thank you.

8 CAPTAIN TOOMAN: Ma'am, I'm going to
9 publish this.

10 THE COURT: Go ahead.

11 | BY CAPTAIN TOOMAN:

12 Q I'm now publishing page 1, Prosecution
13 Exhibit 45. Ms. Glenn, my first question to your is:
14 You talked on direct about the title of this document,
15 correct?

16 A Yes.

17 Q And you read it to the Court. Would you
18 agree that the title of this document actually has a
19 question mark at the end?

20 A Yes, it does.

21 Q And so that would suggest, would you agree,

1 that we don't know the answer to that question or this
2 document is going to set out to answer that question?

3 Would you agree with that?

4 A Could you repeat the question?

5 Q Sure. You would agree that based on the
6 title of this document, that is a question, that is we
7 don't know whether foreign intelligence services,
8 insurgents, or terrorist groups use WikiLeaks as an
9 on-line reference.

10 Would you agree with that? The question
11 mark would suggest that we don't know. Do you agree
12 with that?

13 A The question mark suggests that we can't
14 confirm it.

15 Q Okay.

16 A Not that we don't know, but we can't
17 confirm it.

18 Q Okay. If we could confirm it there
19 wouldn't be a question mark there, correct?

20 A At that time, yes.

21 Q I'm sorry? So if there were no question

1 mark there you would agree with me that that would
2 suggest that foreign intelligence service, insurgents,
3 and terrorist groups are using WikiLeaks as an on-line
4 reference?

5 A During that time frame we couldn't confirm
6 it.

7 Q Okay. Now I'm going to remove page 1 from
8 the overhead and place page 2. You talked on direct
9 about the stated purpose of WikiLeaks, and I would
10 direct your attention to the second paragraph from the
11 bottom which is the one denoted by the unclassified
12 paragraphs there. Do you see that?

13 A Yes.

14 Q You would agree with me that the stated
15 intent of WikiLeaks is to expose unethical practices,
16 illegal behavior, and wrongdoing (INAUDIBLE)
17 organizations or corporations, and oppressive regimes
18 throughout the world. Is that accurate?

19 A That was the stated intent.

20 Q The stated intent is to not to assist
21 foreign militaries, correct?

1 A I can't make that determination.

2 Q Well, that wasn't stated, you would agree
3 with that, correct?

4 A That's not stated within the document, yes.

5 Q Okay. Now, continuing to talk -- I've
6 removed page 2 from the overhead. I'm going to place
7 page 6 on. Continuing to talk about the stated purpose
8 of WikiLeaks.

9 I want to direct your attention to the
10 first full paragraph there, the one with the U in
11 parenthesis, starts WikiLeaks.org. Go ahead and read
12 that first paragraph there for me. I'll point to that
13 paragraph with my pen.

14 A WikiLeaks.org --

15 Q Just read it to yourself, ma'am?

16 A (Witness reviewing document.)

17 Okay.

18 Q Ma'am, based on this report would you agree
19 with me that one of the purposes or the goals of
20 WikiLeaks is a free and unrestrained press? Would you
21 agree with that ma'am?

1 A Based on this statement, yes.

2 Q Removing page 6. Ma'am, I'd like to talk
3 now a little bit about how these documents are created.
4 Okay? Now, you talked about a few different ways in
5 which one of these products would be initiated.

6 You talked about it could be
7 self-initiated, correct, and that's what happened in
8 this case?

9 A Yes.

10 Q I'll just ask you to say your answer out
11 loud for the purpose of the court reporter.

12 A Yes.

13 Q Another way would be through an RFI?

14 A Request for information, yes.

15 Q Would you explain what this is?

16 A That's when a command sends us through
17 e-mail or a request for information on a particular
18 item and then we would research it and use a product
19 off of it.

20 Q So if there were requests for information,
21 and there wasn't a request for information in this

1 case, correct?

2 A No, this is self-initiated.

3 Q So no unit came to A6 and said, we think
4 that maybe WikiLeaks is using, or the enemy is using
5 WikiLeaks, we'd like you to look into it, correct, that
6 didn't happen?

7 A No request of information.

8 Q You mentioned a third way in which one of
9 these documents would be initiated. What was that,
10 ma'am.

11 A A requirement.

12 Q And could you explain what that means?

13 A Of that through our production system a
14 customer will put in a request for assessment and then
15 we will perform that assessment based on their request.

16 Q So if someone had said, hey, we think that
17 maybe WikiLeaks is getting used by the enemy, they
18 could have used that process in order to have this
19 product produced; is that correct?

20 A Yes, they could have.

21 Q And that didn't happen here, correct?

1 A No, it didn't.

2 Q Now, I'd liked to speak now about sort of
3 the process through which this is created. Once it's
4 been initiated here we had self-initiation and then we
5 talked about all the research that goes into it, right?

6 A Yes.

7 Q And I think you talked about in this case
8 it would be Mr. Horbach or whoever drafted the document
9 would have looked at JWICS; is that correct?

10 A Yes.

11 Q And so Mr. Horbach work look at JWICS and
12 he would have been looking for any sort of intelligence
13 that would have helped answer the question posed by
14 this paper?

15 A He would use that, but that wouldn't be the
16 only source he would use.

17 Q Sure, okay. Within JWICS is where the
18 United States government keeps top secret information,
19 correct?

20 A There's other information on JWICS, not
21 only top secret.

1 Q So you would have not only top secret
2 information on JWICS, but other information as well?

3 A Yes.

4 Q There's a lot of information on JWICS?

5 A Yes.

6 Q You've got the SIPRnet and that includes
7 secret and down, correct, and then JWICS is higher. So
8 there's even more on JWICS?

9 A Yes.

10 Q And you talked about a number of things
11 that would have been referenced when producing this
12 document?

13 A Yes.

14 Q There's human?

15 A Yes.

16 Q Signet [sic]?

17 A Yes.

18 Q Osent [sic]?

19 A Yes.

20 Q Masent [sic]?

21 A Yes.

1 Q Did I miss any?

2 A Imit [sic].

3 Q Okay. So all of those ints would have been
4 looked at by the individual who drafted this document?

5 A Yes.

6 Q Pretty much the author of this document had
7 just about all of the United States government's
8 intelligence at their fingertips. Is that fair to say,
9 with some very limited exceptions, they are looking at
10 just about everything?

11 A Yes. They was looking at just about
12 everything, yes.

13 Q Now, so the individual who drafted the
14 document would have looked at all of this information
15 and they incorporated that into their document?

16 A If they found something.

17 Q Sure. If they found something, if they
18 found a source they would have noted it in this
19 document and then after the document was written it
20 would have gone out for external coordination, correct?

21 A Yes.

1 Q And in this case Mr. Horbach looked at all
2 of this information, all of JWICS, all the ints and
3 then he sent it out to the national ground intelligence
4 center, correct?

5 A Yes.

6 Q And they scrubbed it as well?

7 A Yes.

8 Q And so if they would have had any
9 intelligence that maybe Mr. Horbach missed or maybe
10 didn't have access to they could have added it on this
11 document, correct?

12 A Yes.

13 Q And so this external coordination also is a
14 process through which we can make sure we have as much
15 intelligence as possible in forming this paper,
16 correct?

17 A Yes.

18 Q Now, I want to talk about the document
19 itself. Through the document there are footnotes,
20 correct?

21 A There are end notes.

1 Q End notes and what is the purpose of an end
2 note?

3 A The purpose of the end note is to list
4 where you acquired the information from.

5 Q So it's the source, is that accurate?

6 A Yes, it's the source.

7 Q So if there was an intelligence report that
8 said Captain Tooman eats too many cookies and there
9 would be an end note and you'd have the source of that
10 information?

11 A Yes.

12 Q And it might be my mother or someone else?

13 A Yes.

14 Q That's how I know it would work?

15 A Yes.

16 Q I want to -- I'm going to publish page 11.
17 I'll direct your attention to sort of the middle of the
18 paragraph here we have a paragraph that was secret, no
19 foreign, it's been lined through. It starts
20 intelligence indicates that insurgents. Right here.
21 Do you see that?

1 A Yes.

2 Q That says intelligence indicates that an
3 insurgents in Afghanistan have recovered several
4 (INAUDIBLE) systems and then we have an end note. And
5 we have the unclassified version of this document, but
6 if we were looking at the classified version we can go
7 to number the 12 at the back and you can see the source
8 of that?

9 A Yes.

10 Q And we would know from looking at that the
11 classified document, how we know that insurgents in
12 Afghanistan have recovered several warlock systems?

13 A Yes.

14 Q That would be some intelligence that was
15 gathered from the JWICS system or from some other
16 source that the author referenced?

17 A Yes.

18 Q Or it could have been something that the
19 external coordination added to the document as well,
20 correct?

21 A Yes.

1 Q I'm going to remove page 11. Now, would
2 you agree with me that this document, there are over 50
3 end notes?

4 A I'm not exactly sure how many end notes
5 it's in the document. I don't remember.

6 Q I'm going to hand the witness what's been
7 marked as Prosecution Exhibit 45.

8 Would you please take a look at that and
9 just let us know how many end notes there are?

10 A Fifty-five end notes.

11 Q I'm going to retrieve the exhibit from the
12 witness.

13 So within this document there are 55 facts
14 or pieces of intelligence that we the government had
15 verified? That's how we know it, correct?

16 A Yes. Fifty-five pieces of information of
17 end notes that list sources.

18 Q Would you agree with me that if we had a
19 source for something it would be listed?

20 A If there was a source for something in that
21 document, if the analyst found it, it would be listed;

1 but that does not mean that the analyst did not find
2 all the sources.

3 Q Okay.

4 THE COURT: That does not mean that the
5 analyst did not find all the sources? I don't
6 understand that.

7 THE WITNESS: So let's say an analyst is
8 writing product and some sources have not been
9 published yet. So, therefore, that analyst who wrote
10 that product would not have all of the sources for that
11 document, but he will write the documents based on the
12 sources that at the time was available.

13 BY CAPTAIN TOOMAN:

14 Q So there might be some intelligence out
15 there that he just hasn't seen yet?

16 A Yes.

17 Q And he wouldn't incorporate that into the
18 document.

19 A Because he has not seen it?

20 Q It would be impossible to incorporate it?

21 A Yes.

1 Q Now, I'm going to publish page 20 and I'd
2 like to focus on the one of the areas in the template
3 called intelligence gaps.

4 Ma'am, you would agree with me that an
5 intelligence gap is something that we don't know,
6 correct?

7 A Not always.

8 Q Okay. You would agree with me that it's
9 something that -- a gap is there's something missing,
10 correct?

11 A Not always.

12 Q What is a gap?

13 A Sometimes a gap could be information that
14 we cannot confirm.

15 Q Okay.

16 A We know it, but we can't confirm that it's
17 actually true.

18 Q Okay. And you would agree with me that in
19 cases where you know something you would cite it,
20 correct, you would cite a source for it? If you know
21 it you cite the source for it, correct?

1 A If the source can confirm it -- we can know
2 something but we can't confirm it. So we cannot put it
3 in the document because it's not -- it's not
4 corroborated.

5 Q When you say you can't confirm it, you mean
6 you don't really know, you can't say for sure that you
7 know in?

8 A I can't say for sure that I know it.

9 Q If you had even any sort of source or
10 intelligence you would have -- would you cite that in
11 the document, correct? You wouldn't have a source for
12 something and then just leave that source out, right?

13 A If I can't confirm the source, yes, I would
14 leave it out.

15 Q Because you can't confirm it, you don't
16 know for sure?

17 A Not necessarily that I don't know for sure.
18 I cannot not confirm the source is accurate.

19 Q If you knew for sure, you would put the
20 source in there, right?

21 A If the source is verified, yes, I would put

1 the definition in there.

2 Q Now, I want to talk about these
3 intelligence gaps. I'd like to direct your attention
4 to the third one.

5 You'd agree with me that this says would
6 the WikiLeaks.org website be used by FISS, that's
7 foreign intelligence services; is that correct?

8 A Yes.

9 Q Foreign military services, foreign
10 insurgents, or terrorists groups to collect sensitive
11 or classified or U.S. Army information posted to the
12 WikiLeaks.org website? That's listed as an
13 intelligence gap, correct?

14 A Yes.

15 Q So that's something you can't confirm?

16 A No, we can't confirm that.

17 Q And would you agree with me that there is
18 no end note at the end of that intelligence gap,
19 correct?

20 A Intelligence gaps we don't put end notes on
21 intelligence gaps.

1 Q Because you don't have sources for them?

2 A They're gaps.

3 Q There is not an end note, but there is a
4 question mark?

5 A Yes.

6 Q Again, a question mark would indicate that
7 it's something that we are looking for the answer to,
8 right?

9 A Something we can't confirm the answer to.

10 Q If we had the answer, it wouldn't be in the
11 intelligence gap section, correct?

12 A If we can't confirm it then we put it in
13 the intelligence gaps.

14 CPTAIN TOOMAN: Your Honor, I have no
15 further questions. I'm going to remove page 20 of
16 Prosecution Exhibit 45 and return it to the court
17 reporter.

18 THE COURT: Redirect?

19 CPTAIN OVERGAARD: Just one moment,
20 please.

21 REDIRECT EXAMINATION

1 Q So you started explaining about
2 intelligence gaps a little bit when defense asked you
3 about it, but I want to hear in own words what is an
4 intelligence gap?

5 A That is easier if I give you an example.

6 Q Okay.

7 A Let's say I look at an organization. I
8 know the organization name. I know that organization
9 has five branches. I know four of the branch names,
10 but the fifth branch I'm not exactly sure what the name
11 is. I have an idea of what it could possibly be based
12 on the structure, but I cannot confirm if that's the
13 actual name. That's an example, one example of an
14 intel gap.

15 Q How about using the example that defense
16 pointed out. What can be confirmed, or can you explain
17 why that's an intelligence gap, what's confirmed and
18 what needs verification? How does that work?

19 A In this particular example we know that
20 intelligence organization and terrorist groups perform
21 open source intelligence, but we cannot confirm if they

1 actually visit that cite and looked at the information.

2 CPTAIN OVERGAARD: Just one moment,
3 please.

4 BY CAPTAIN OVERGAARD:

5 Q And then after the intelligence gaps, what
6 does the conclusion says starting with in addition?

7 A It says, in addition, it must also be
8 presumed that foreign intelligence -- foreign
9 adversaries will arrive and assess any DoD sensitive or
10 classified information posted to the WikiLeaks.org
11 website.

12 Q Thank you.

13 THE COURT: (INAUDIBLE)

14 RECROSS EXAMINATION

15 BY CAPTAIN TOOMAN:

16 Q Now, you said that an intelligence gap
17 would be something that you can't confirm. You would
18 agree that an intelligence gap would also be something
19 we have no idea about?

20 A It could be.

21 Q It could be. And you talked just now about

1 presuming something. How do you define presume, ma'am?

2 A How do I define presume?

3 Q Yes.

4 A That quote was based on historical analysis
5 of what foreign intelligence services and terrorist
6 organizations do. We know they conduct open source
7 intelligence and we know that they are interested in
8 classified and sensitive U.S. government information.

9 So based on what we know we presume that
10 they will look at that site if that information is
11 posted there.

12 Q But you have no intelligence that the enemy
13 or those groups have ever gone to WikiLeaks.org?

14 A At that time, during that time frame we
15 could not confirm it.

16 Q And you also couldn't say if they were
17 going to go there in the future?

18 A We know that they do open source research.
19 We know they have certain key words they use to search
20 with, and we know if this classified information, that
21 information will be reviewed and assessed.

1 Q And you presume that? You --

2 A We know that they visit websites.

3 Q You know they visit websites, but you don't
4 know they visit WikiLeaks?

5 A We cannot confirm that they didn't visit
6 WikiLeaks.

7 Q You have no intelligence to suggest that
8 they have ever been to WikiLeaks at that time?

9 A We couldn't confirm it at that time that
10 they visited WikiLeaks.

11 Q And if you would, ma'am, please, you've
12 explained that conclusion, but what just the word
13 presume, what does that mean to you, ma'am?

14 A Presume?

15 Q Presume.

16 A Presume to me means that we will -- presume
17 means that we think that they will visit that website.

18 CPTAIN TOOMAN: Okay. Thank you, ma'am.

19 THE COURT: Any final redirect?

20 CPTAIN OVERGAARD: Yes, ma'am.

21 REDIRECT EXAMINATION

1 Q You said on cross you could not confirm
2 enemies saw WikiLeaks in 2008?

3 A In 2008 we could not.

4 Q How about in 2009?

5 A In 2009, we could not.

6 Q And how about in 2010?

7 A In 2010, we could not.

8 CPTAIN OVERGAARD: Thank you.

9 THE COURT: I just have one question for
10 you to. You talked about the three different ways that
11 reports are generated the self-initiate have had versus
12 the RFI versus the.

13 THE WITNESS: (INAUDIBLE).

14 THE COURT: In terms of frequency, how
15 frequently are self-initiated reports generated versus
16 the other two? Are they unusual?

17 THE WITNESS: No, they're not. They're
18 common. Self-initiated on our mission statement we
19 identify, you know, threats to the United States Army
20 counterintelligence threats to the United States Army.
21 So we are always looking for threats to the United

1 States Army. So self-initiate the products are
2 produced often within our organization.

3 THE COURT: Any follow-up questions based
4 on mine?

5 CAPTAIN OVERGAARD: No, ma'am.

6 CAPTAIN TOOMAN: No, ma'am.

7 THE COURT: Temporary or permanent excuse
8 (INAUDIBLE).

9 CAPTAIN OVERGAARD: Temporary.

10 THE COURT: Ma'am, you're temporarily
11 excused. Don't discuss the case with anyone other than
12 counsel of the accused while the trial is still going
13 on. Thank you, ma'am.

14 Is there any further evidence either
15 side want to put on the today?

16 MAJOR FEIN: No, ma'am.

17 MR. COOMBS: No, Your Honor.

18 THE COURT: Before we recess the court I do
19 want to go over a timeline for deciding today's issues
20 on objections for Prosecution Exhibit 31, 32 and 109.

21 I would like the parties to put in

1 writing the government what's the relevance of these
2 what hearsay, nonhearsay purpose. Defense sort of
3 put the issues (INAUDIBLE) if you will, the issue
4 off on the table.

5 I'm not going to have the government
6 file first and then you file first. You have the
7 gist of what they're bringing in. We can have an
8 oral argument if they create something knew, then we
9 can address it there.

10 I understand we've got a busy week and
11 you all are bringing in witnesses and doing that.
12 If we take a little bit of time to file these briefs
13 and for me to rule. Are these exhibits going to be
14 introduced with any other witnesses that are coming
15 tomorrow or the next day?

16 CAPTAIN MORROW: No, Your Honor.

17 THE COURT: What's the window of time that
18 we're looking at before we have to have that issue
19 resolved?

20 CAPTAIN MORROW: I believe the end of the
21 week is probably sufficient to get this resolved.

1 THE COURT: Okay. What is a reasonable
2 timeline in light of your schedules with witnesses and
3 preparation and getting everybody here without delaying
4 the proceedings to be able to come up with these
5 filings.

6 MAJOR FEIN: United States would offer
7 three days. We'll have it by COB on Thursday.

8 THE COURT: COB on Friday, and you want me
9 to rule by the end of the week.

10 MAJOR FEIN: Thursday.

11 THE COURT: You want me to rule Friday
12 morning.

13 MAJOR FEIN: Very short and concise, brief.
14 We can go earlier, ma'am.

15 THE COURT: Let's do Wednesday. Can you do
16 that?

17 MR. COOMBS: We are at a disadvantage
18 because all of us are in court. The government has
19 other counsel.

20 THE COURT: If you get it to me by the end
21 of the week and I rule on Monday, will that work?

1 MR. COOMBS: Yes, that will.

2 CAPTAIN MORROW: I thought that it could be
3 submitted by the end of the week and then move on.

4 THE COURT: The following week?

5 CAPTAIN MORROW: Yes.

6 THE COURT: So we have a COB on Thursday.
7 Does that work? That way if there's any issues we can
8 address it on it Friday (INAUDIBLE).

9 MR. COOMBS: We're looking at COB Friday?

10 THE COURT: We're looking at COB Saturday.

11 MAJOR FEIN: Friday works, ma'am.

12 MR. COOMBS: If you give me Saturday, I'll
13 take Saturday.

14 CAPTAIN MORROW: One moment, Your Honor.

15 MAJOR FEIN: Saturday is fine as well
16 ma'am.

17 THE COURT: We'll do COB Saturday and what
18 I would ask is you identify all that you know of and
19 can you get me the copies of whatever of those
20 authorities are that you have (INAUDIBLE).

21 MR. COOMBS: I'll get those to you.

1 THE COURT: Government, the same thing.
2 Give them to me as soon as you can and I'll expect your
3 briefs on Saturday and we'll go next week.

4 CAPTAIN TOOMAN: Would you like hard copy
5 or e-mail electronic?

6 THE COURT: Both. Is there anything else
7 we need to address today?

8 MAJOR FEIN: No, ma'am.

9 MR. COOMBS: Nothing, Your Honor.

10 THE COURT: Start same time tomorrow.

11 CAPTAIN MORROW: With respect to authority
12 are you speaking specifically to the Internet archive
13 of Twitter.

14 THE COURT: No. I'm speaking legal
15 authority. They cited three case.

16 CAPTAIN MORROW: Related to the Internet
17 archive, related to the authentication of the
18 information.

19 THE COURT: If you have any authority that
20 is germane to this motion or any of the three
21 objections. I believe they are the hearsay,

1 authentication, and relevance that you want me to -- or
2 that you already have that you want me to consider, I
3 would appreciate it. More time it is always better for
4 me.

5 CAPTAIN MORROW: Yes, ma'am.

6 THE COURT: Is there anything else we need
7 to address?

8 CAPTAIN TOOMAN: No, ma'am.

9 THE COURT: The court is in recess.

10 (Hearing adjourned at 6:51 p.m.)

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